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NUMBER 11

NEGRO SUFFRAGE IN GEORGIA, 1867-1930

Ralph Wardlaw, M. A.
Phelps-Stokes Fellow in the University of Georgia, 1930-31

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NEGRO SUFFRAGE IN GEORGIA, 1867-1930

RALPH WARDLAW, M. A.
Phelps-Stokes Fellow in the University of Georgia, 1930-31

A thesis presented to the Faculty of the University of
Georgia in partial fulfillment of the requirements
for the degree of Master of Arts

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PRESIDENT'S FOREWORD

Upon the recommendation of the Phelps-Stokes Committee of the University of Georgia, Mr. Ralph Wardlaw was appointed as the Phelps-Stokes Fellow for the year 1930-31. The study was made under the direction of Professor E. M. Coulter as major professor in the Department of History.

PHELPS-STOKES FELLOWSHIP

This fellowship has been endowed under the following resolutions of the Trustees of the Phelps-Stokes Fund:

"Whereas, Miss Caroline Phelps-Stokes in establishing the Phelps-Stokes Fund was especially solicitous to assist in improving the condition of the negro, and

"Whereas, It is the conviction of the Trustees that one of the best methods of forwarding this purpose is to provide means to enable southern youth of broad sympathies to make a scientific study of the negro and his adjustment to American civilization:

"Resolved, That twelve thousand five hundred dollars ($12,500) be given to the University of Georgia for the permanent endowment of a research fellowship, on the following conditions:

"1. The University shall appoint annually* a Fellow in Sociology, for the study of the Negro. He shall pursue advanced studies under the direction of the Departments of Sociology, Economics, Education, or History, as may be determined in each case by the President. The Fellowship shall yield $500, and shall, after four years, be restricted to graduate students.

"2. Each Fellow shall prepare a paper or thesis embodying the result of his investigation, which shall be published by the University with assistance from the income of the fund, any surplus remaining being applicable to other objects incident to the main purpose of the Fellowship. A copy of these resolutios shall be incorporated in every publication issued under this foundation."

"The right to make all necessary regulations, not inconsistent with the spirit and letter of these resolutions, shall be given to the President and Faculty, but no changes in the conditions of the foundation can be made without the mutual consent of both the Board of Trustees of the University and of the Phelps-Stokes Fund."

S. V. Sanford,
President.

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* By mutual consent of the Trustees of the Phelps-Stokes Fund and the Regents of the University, the Fellow in Sociology may be appointed biennially, two fellows every three years, or annually, as the President and the Faculty may see fit. The Fellowship will then pay $750 or $500, depending upon the frequency with which it is awarded.

PREFACE

In recent years the question of the suffrage rights of negroes in Georgia has not been a great political issue. Public discussion on this subject has, in a large measure, been eliminated. At present the problem, while it cannot be considered solved, or definitely set apart from the political life of the State, has become quiescent.

Some argue that the present laws are unfair and that they should be revised. They claim that an impartial administration of the laws under which the State now operates is impossible. Others maintain that the present laws serve the best interests of the State.

This study is concerned with an historical, political, and sociological treatment of the developments leading to the present status, and with a consideration of the equity and desirability of the laws existing today. In years past the question of negro suffrage occupied a place as one of the leading political issues in Georgia. The main consideration here is to present a discussion of the issue as it had been present through the years following the Civil War, in an attempt to further an understanding of the present situation in Georgia.

A clearly defined picture of negro suffrage is very difficult to draw. Many of the facts necessary to complete an adequate portrayal of the subtle ramifications of this problem have been inadvertently, or through definite design, relegated to obscurity through one agency or another.

Some of these agencies appear to be very peculiar, some bear upon certain groups unjustly, others appear as necessary to the safe conduct of governments. It is hoped that this discussion will lead toward a fuller appreciation by all concerned of the need for great sympathies, patience and good will in attempts to deal with the suffrage problem and those akin to it.

ACKNOWLEDGMENTS

The success which may attend the publication of this pamphlet is due in a large measure to Professor Ellis Merton Coulter of the University of Georgia, who guided the author through the

research and study necessary to its completion, and to Dr. Austin Southwick Edwards, Chairman of the Phelps-Stokes Committee at the University, who, with Drs. J. H. T. McPherson and George A. Hutchinson, gave generously of his time and valuable criticism. I wish to express my sincere thanks to all of these gentlemen.

The kind assistance of officials of Clarke County, of members of the staff at the Carnegie Library in Atlanta, and at the library of the University of Georgia, together with that of Miss Ruth Blair of the Department of Archives and History of the State of Georgia, made available for examination a great number of old manuscript records, periodical files and important publications which have been drawn upon for material used in the construction of this study.

RALPH WARDLAW.

University of Georgia,
Athens, Georgia,
July 8, 1932.

CHAPTER I

A BRIEF GENERAL VIEW OF ELECTIVE PRIVILEGES PRIOR TO THE CIVIL WAR

On a subject concerning which so much has been forced upon the suspicions and imaginations of citizens, it is natural that their conceptions of the circumstances go awry. Unfounded ideas steal in. Misunderstandings become rife and clear thinking is precluded.

It is a widely disseminated belief that the Fifteenth Amendment gave the negro the right to vote—that under this article of the United States Constitution that race enjoyed its first suffrage. Yet views in conflict with this belief are variously expressed. In 1876 the United States Supreme Court held, in the case of the *United States vs. Cruikshank,* that "the right to vote comes from the State, but the right of exemption from the prohibited discrimination comes from the United States, . . ."[1] In the same case it was decided that "the right of suffrage is not a necessary attribute of national citizenship."

In another Supreme Court case referring to this Amendment, the court's opinion was that "the Fifteenth Amendment does not confer the right of suffrage upon anyone. It prevents the States, or the United States, however, from giving preference, in this particular, to one citizen of the United States over another on account of 'race, color or previous condition of servitude.' "[2]

A consideration of these cases concerned with the Fifteenth Amendment touches upon the earlier suffrage only in retrospection. Leave this consideration for the present and look at the elective privileges which the negro had in the years before the adoption of the amendment and before the Civil War. In these earlier years the negro's privileges were circumscribed by an agency even more powerful than those operative today. The agricultural system in the South held him a slave. Still, in 1775, negroes were given the elective franchise in eleven of the thirteen English colonies in America. In general they were allowed to vote only in local affairs.[3] It is impossible to find statistics showing the numbers of negroes voting in the colonies under these provisions, but it is reasonable to assume that such groups were quite small.

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[1] *United States Supreme Court Reports,* Volume 92, p. 556. This opinion was rendered in October, 1876.

[2] United States vs. Reese, et al., *United States Supreme Court Reports,* Volume 92, p. 217.

Georgia and South Carolina were the two colonies that did not grant the elective privilege to the negro in this early period.[4]

Georgia's Constitution of 1777, her first state instrument, set down precisely the kinds of persons who had the right to vote. Negroes were not included. This constitution provided, that "All male white inhabitants, of the age of twenty-one years, and possessed in his own right of ten pounds value, and liable to pay tax in the State, or being of any mechanic trade, and shall have been a resident six months in this State, shall have a right to vote at all elections. . . ."[5]

It is interesting to note that Article XII of this Constitution of Georgia placed a "penalty not exceeding five pounds" upon "every person absenting himself from an election."[6]

The Georgia Constitution of 1789 simplified the statement of qualifications of electors, but negroes were still not included. It provided that "The electors of the members of both branches of the General Assembly shall be citizens and inhabitants of this State, and shall have attained to the age of twenty-one years, and have paid tax for the year preceding the election, and shall have resided six months within the county."[7]

Earlier references to question of the suffrage are found Massachusetts concerned herself as early as 1647 with an attempt to define her suffrage element. By a provision of the General Court of that State, freeholders, and non-freemen twenty-four years of age or over, of good character, who had taken an oath of fidelity, were made eligible to jury duty, voting in local affairs in town-meetings and holding town office.[8] It is important that the term non-freemen shall not be confounded with ex-slaves or slaves. Usually, no race distinction was made in determining who were freemen.

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[3] Andrew C. McLaughlin and Albert B. Hart, *Cyclopedia of American Government* (New York, 1914), II, 516, 517.

[4] *Ibid.*

[5] Constitution of Georgia of 1777, Article IX, in Walter McElreath, *A Treatise on the Constitution of Georgia* (Atlanta, 1912), 232.

[6] *Ibid.*, 233.

[7] *Ibid.*, Article IV, Section 1, p. 247.

These Massachusetts provisions are interesting because they give, in all likelihood, the genesis of suffrage limitations in a colony later to be a part of the United States. But Massachusetts had placed restrictions upon the exercise of the suffrage as early as 1624.[9] It is significant to notice that the provisions of 1647 placed the age requirement for electors at twenty-four years. The presence of the *good character clause* will demand more attention later when the more recent amendments to State constitutions in the Southern States during the period from 1890 to 1908 are considered.[10]

By a colonial act in 1715 North Carolina provided that no negro, mulatto nor Indian could vote for members of the Assembly. This law was repealed by the King's order in 1734,[11] and in 1743 North Carolina gave the suffrage to all freemen who could qualify. There were property qualifications placed upon this group. This law was repealed before 1760.[12]

The course of negro suffrage in Georgia did not show much similarity to that of North Carolina, for Georgia had always excluded the negro vote.

The United States Constitutional Convention of 1787 considered it a State's prerogative to impose such suffrage qualifications as it deemed best.[13] It is shown that the Convention was deterred from prescribing uniform national suffrage through fear of losing the support of several states which wanted to restrict the suffrage less than did the Convention. It was set down in the Federal constitution that the electors of state representatives in Congress should have ''qualifications requisite for electors of the most numerous branch of the state legislature.'' But at that time no effort was made by Congress to further limit the right of each State to set up its own electoral qualifications. In fact ''there was at this time little pressure toward a uniform suffrage for blacks and whites in any part of the Union.''[14]

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[8] G. H. Haynes, *History of Representation and Suffrage in Massachusetts* (1620-1691), (Baltimore, 1894), p. 55.

[9] *Ibid.*, 74.

[10] See Article II, Section 1 of the Constitution of Georgia of 1877, in McElreath, *Constitution of Georgia*, 411-416.

[11] S. B. Weeks, *A History of Negro Suffrage in the South* (New York, 1894), p. 671.

[12] *Ibid.*, 671-3.

[13] McLaughlin and Hart, *Cyclopedia of American Government*, 444.

The Constitution of Georgia of 1798 gave the right of suffrage to ''citizens and inhabitants'' of the State.[15] Georgia did not include the free negroes of the State as ''citizens'' and in this way excluded them from voting. In 1861 the Georgia Constitution included a new, or rather a newly expressed, restriction upon electors. Section 1 of Article V of this constitution used the expression, ''free white male citizens of this state'' in defining the persons who shall be electors.[16] The provisions of the Constitution of the State in 1865 were substantially the same, with the added clause, ''and no person not qualified to vote for members of the General Assembly shall hold any office in this State.''[17] Georgia has had two constitutions since 1865—one in 1868, and the constitution operative in the State today, the Constitution of 1877. These will be considered later.

The proponents of suffrage restriction received a boon in December of 1856 in the famous case of *Dred Scott vs. John F. A. Sandford.*[18] The Supreme Court held in this case that ''A free negro of the African Race, whose ancestors were brought to this country and sold as slaves, is not a 'citizen' within the meaning of the Constitution of the United States.''[19] Another point clarified in the same decision was that ''Since the adoption of the United States Constitution no State by subsequent law can entitle [a free negro of the African Race] to the rights and privileges secured to citizens by that instrument.''[20]

Connecticct and Massachusetts, in 1854 and 1856, respectively, took the lead in a new movement by imposing educational qualifications upon their electors.[21] Credit for the inception of this discrimination is often given to one of the Southern States, usually Mississippi. It was a wise move then, and the Southern States which later adopted, through State constitutional amendments, provisions similiar in character were politic in following the example of Connecticut and Massachusetts.

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[14] Weeks, *History of Negro Suffrage in the South,* 680.
[15] McElreath, *Constitution of Georgia,* 264.
[16] *Ibid.,* 296.
[17] *Ibid.,* 315.
[18] *United States Supreme Court Reports,* Howard, Volume 19, p. 393.
[19] *Ibid.*
[20] *Ibid.,* 393, 394.
[21] McLaughlin and Hart, *Cyclopedia of American Government,* 444.

Prior to this innovation in suffrage limitation Delaware in 1792, Kentucky in 1799, Maryland in 1810, Virginia in 1830 and North Carolina and Tennessee in 1835, had imposed restrictions upon the suffrage of negroes.[22] Tennessee definitely set down that the term "freemen," as mentioned in her constitution, be construed to mean white men only.

Every state south of the Mason and Dixon Line which came into the Union prohibited negro suffrage.[23]

There began under Jefferson in 1801 a significant extension of the suffrage. Shortened terms of residence required for voting came into use and property qualifications disappeared, the last in Louisiana in 1845, but some states maintained a poll tax.[24] This suffrage extension under Jefferson is interesting because the move was made under Democratic leadership. It did not materially affect the suffrage of negroes at that time, but its influence was felt later. This will be recognized as an advance for the negro in gaining electoral privileges. As such it is worthy of consideration here.

In the North the negroes soon were excluded from the right of suffrage. They were excluded in New Jersey in 1807, in Connecticut in 1814 and in Pennsylvania in 1838. After 1821 New York set up special provisions for the negro votes but did not exclude them. Every one of the Northwestern States admitted to the Union before the Civil War put a clause against negro suffrage into its constitution.[25]

On March 13, 1864, President Lincoln, in a letter to Governor Hahn in Louisiana, desired to "barely suggest" letting some colored people into the suffrage, "for instance the very intelligent" and those who "fought gallantly in our ranks." But Lincoln was not in favor of admitting the negro to either full political or full social equality with the white man. He never at any time favored the admission of the negro into the body of electors in his State, or in the States of the South.[26]

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[22] *Ibid.*, 517.
[23] *Ibid.*
[24] *Ibid.*, 444.
[25] *Ibid.*, 517.

Lincoln expressed this view even more fully in a speech at Charleston, Illinois, on September 18, 1858. In this speech he not only disavowed his intention to bring about social or political equality between the two races, but he also expressed his idea against making jurors of negroes or qualifying them to hold office.[27] It is very interesting to speculate on just what the situation and the outcome would have been in the Reconstruction Congresses had Lincoln not met his tragic end. Would the course of politics in the United States have been radically different with Lincoln in Johnson's place at the helm? Would Lincoln have met the bitter opposition that Johnson faced? Would the Emancipator's great powers of compromise and conciliation have been of avail? All questions strike back rhetorically upon those who yield to the impulse to conjecture upon such matters.

It is valuable here to see some characteristics of Georgia's population in 1860. The State had 106,365 voters at that time.[28] This figure is significant, for it was used as the representation basis in 1867. The aggregate population of colored people was 465,698, of which only 3,500 were "free persons of color."[29]

These figures constitute something of a prediction of what the character of politics was to be in Georgia in the course of the ten years following 1860. At any rate they should suffice to show how drastic a change was later made when a vast group of negroes was formally admitted to full political privilege in the State. Further ideas of the precipitate nature of their enfranchisement may be gained from a consideration of the illiteracy of the colored group at that time.

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[26] James C. Hemphill, "The South and the Negro Vote," in *North American Review*, August, 1915, p. 213-219.

[27] Oscar W. Underwood, "The Negro Problem in the South," in *The Forum*, Volume XXX, October, 1900, p. 218-219.

[28] *The Southern Watchman* (Athens, Georgia), June 27, 1866.

[29] *Eighth Census of the United States. Population Statistics*, 1860, Table 2, p. 72.

CHAPTER II

POLITICAL DEVELOPMENTS FROM THE END OF THE CIVIL WAR TO THE PASSAGE OF THE RECONSTRUCTION MEASURES IN CONGRESS[1]

Since the constitution of Georgia of 1861 gave to "free white male citizens" the rights of electors, negroes were not allowed to vote.[2] The Constitution of 1865 maintained the same restrictions upon the suffrage, and added that only persons who were qualified as electors were eligible to hold office in the State.[3] No change was made in the suffrage in Georgia during the Civil War. Further, no northern state granted the negro admission to the suffrage during the period of the war.[4]

The question of the political disposition of the Confederate States "began to be prominent in public discussion in December, 1863."[5] "The failure of Confederate arms left the states of the South in a position legally so anomalous that, at first, the Federal government had no definite theory concerning their legal status."[6] Congress adjourned on March 3, 1865, without making any provisions for the conquered states. After the death of Lincoln, President Andrew Johnson was left until December 4, the time of the meeting of the next session of Congress, to try to effect a restoration of the late "rebel" states. The policy which he followed was substantially that presented by President Lincoln in his Amnesty Proclamation of December 8, 1863. Lincoln had not favored universal suffrage. He was opposed to granting suffrage rights to the negroes.[7] His general scheme was that as soon as one-tenth of the voters of 1860 in any State had taken an oath of Amnesty they could proceed with the affairs of the State. In addition to this there were some minor provisions.[8]

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[1] Georgia was admitted by an Act of Congress approved by President Grant in July of 1870. However, her representatives to Congress were not sworn in until February, 1871. This date can more logically be considered the date of the re-admission of Georgia to statehood, for the seating of the State representatives had been set by Congress in several of the Reconstruction Acts as a precedent to formal admission into the Union. Republican ascendancy did not end in reality until January 12, 1872, when James M. Smith was inaugurated Governor of Georgia to succeed Benjamin Conley who had filled the unexpired term of Rufus B. Bullock, the Republican reconstruction governor.

[2] McElreath, *Constitution of Georgia,* Article V, Paragraph 1 of the Constitution of 1861, p. 296.

[3] *Ibid.,* 315, Article V, *Miscellaneous Provisions, Section* 1, *Paragraph* 1 *of* the Constitution of 1865.

[4] McLaughlin and Hart, *Cyclopedia of American Government,* II, 517.

[5] Edwin C. Woolley, *The Reconstruction of Georgia* (New York, 1901), 9.

[6] McElreath, *Constitution of Georgia,* 136.

President Johnson lost little time in pursuing his task. On June 17, 1865, he issued a proclamation setting forth the conditions for the reorganization of Georgia.[9] By this proclamation James Johnson was appointed Provisional Governor of Georgia and his duties were fixed. He was to "prescribe rules and regulations . . . for the convening of a convention, composed of delegates to be chosen by that portion of the people of said state who are loyal to the United States, and no others, for the purpose of altering or amending the Constitution thereof; . . . provided, that in any election that may be held for choosing delegates to any state convention as aforesaid, no person shall be qualified as an elector, or shall be eligible as a member of such convention, unless he shall have previously taken and subscribed the oath of Amnesty . . . and is a voter qualified as prescribed by the Constitution and laws of the State of Georgia in force immediately before the 19th day of January A. D., 1861 . . . . [The] convention . . . will prescribe the qualifications of electors, and the eligibility of persons to hold office under the Constitution and laws of the State. . . ."[10]

The oath which accompanied this proclamation required support of the United States Constitution and "Union of the States thereunder" and support of "all laws and proclamations . . . made during the rebellion with reference to the emancipation of slaves."[11]

The negroes were still not included in the body of electors. The proclamation provided that electors of delegates to the constitutional convention had to be qualified to vote under rules prevailing before January 19, 1861. That provision excluded the negro from participation, for at the time specified he had had no electoral rights. In fact there was at this time, as has been stated, little thought of extending the grant of suffrage to the newly emancipated persons. Not even in Congress, where the leaders were later to demand equality of political rights for the negro, had debate on negro suffrage developed.

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[7] John J. Lalor, ed., *Cyclopedia of Political Science* (New York, 1895), III, 542; S. B. Weeks, *History of Negro Suffrage in the South* (New York, 1894), 680; James C. Hemphill, *The South and the Negro Vote* (Omaha, 1915), 213-219.

[8] Lalor, *Cyclopedia of Political Science*, III, 542.

[9] Allen D. Candler, ed., *Confederate Records of the State of Georgia* (Atlanta, 1909-11), IV, 8 ff.

[10] *Ibid.*, 9-12.

[11] *Ibid.*, 16.

Georgia proceeded with her civil restoration. After conforming to other requirements set forth by President Johnson, the convention provided for a general state election to be held on November 15, 1865.[12] Members were duly elected to the legislature on that date by a white electorate, and, on December 9, it ratified the Thirteenth Amendment.[13]

By a resolution adopted in the convention of 1865 a commission was established to draw up a ''freedmen's code,'' laws to regulate the rights of free colored persons.[14] Congressional leaders considered these laws unjust. They deemed it wise to protect the negro in his rights by positive legislation, rather than by these negative codes. This humanitarian view was held by a number of the members of the reconstruction Congresses and it later was of force in evolving the Reconstruction Acts under which Georgia was restored as a State.[15]

The convention in Georgia in 1865 had passed acts which were only ''lukewarm'' in their submissiveness to the Federal conqueror. The convention had only repealed the Ordinance of Secession, instead of declaring it null and void.[16] It had voted a memorial to ex-President Jefferson Davis of the Confederacy.[17] It had shown what seemed to the Northern leaders a rebellious spirit, and only sullen and unrepentant submissiveness.[18]

By the time Congress reconvened, this idea of the condition in the South was broadcast and Congressional leaders were perfecting party organization to combat it. In 1864, Congress had a 40 to 11 Republican majority in the Senate and one of 145 to 40 in the House of Representatives. These ratios were not materially altered during the next four sessions. They afforded a comfortable margin for the passage of laws for restoring the South as the Republican leaders saw fit. Congress was not to accept the reconstruction of the South as partially accomplished by President Johnson. The Georgia lawmakers had been working primarily for the passage of laws to restore the State. They had not greatly concerned themselves with the elevation of the negroes. The only legislation they had passed with reference to colored persons had been both regulatory and restrictive in nature, with the exception of those granting them some ordinary civil rights.

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[12] *Journal of the Proceedings of the Convention of the People of Georgia,* in Milledgeville, October and November, 1865 (Milledgeville, 1865), p. 18.

[13] *Acts of the General Assembly of Georgia,* 1865, p. 313.

[14] *Journal of the Convention of 1865,* p. 18.

[15] Woolley, *Reconstruction of Georgia,* p. 23.
This treatise by Woolley is exceptionally clear. It has discarded the bias of the report of Carl Schurz on conditions in the South and has given with candid clearness the attitudes that were then forming.

[16] *Journal of the Convention of 1865,* p. 17.

[17] *Ibid.,* 16.

[18] "Report of Carl Schurz on Conditions in the South," *Senate Documents* No. 2, 39th Congress, 2nd Session, made in December, 1863.

As a recent investigator has said, "These acts and resolutions expressed through the government the spirit which was found among the people by direct observers—a spirit of submission to irresistible force, in some cases sullen, in most cases unrepentant. At that time the absence of that spirit would have been extraordinary. But the public opinion of the North regarded it not as the aftermath of war, which would soon pass on, but as a spirit which, if left undisciplined, would break out into another war.

"This belief and the belief that the negroes were destined by the southern governments to suffer injustice and debasement, and that the ballot was their only salvation, gave rise to two corresponding purposes—to chasten the rebellious spirit of the South, and to invest the negroes with the voting franchise by force. To destroy the slave governments of the South, and rebuild them on a basis of negro suffrage would accomplish both these purposes. This plan was also supported for the sake of a third purpose, viz., to secure for the Republican party the votes of the negroes. There were thus three classes of men bent on abolishing the Johnson government. We may call them the Humanitarians, the Disciplinarians and the Republican Politicians."[19]

Which of these classes predominated is doubtful. True it is that the Republican leaders held the power in Congress. They were prepared to meet the exigencies occasioned by the war.[20]

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[19] Woolley, *Reconstruction of Georgia*, p. 23.

Early in 1866 the subject of negro suffrage had become an important question of debate in Congress. On February 16, a Republican leader spoke against recognition of the Southern States until the United States Constitution had been so amended as to ''secure perpetual ascendancy to the party of the Union.''[21] He was answered in a paraphrase of his own speech. ''If [the Southern States] should grant the right of suffrage to persons of color, I think there would be Union white men enough in the South, aided by the blacks, to divide the representation, and thus continue the Republican ascendancy.''[22]

Meanwhile various proposals were made which embodied ideas similar to those incorporated later in the Fourteenth Amendment. One proposal was that the right to hold office be appended to the right to vote. An amendment proposed on February 19, 1866, purported to grant the right of voting to all males of the age of twenty-one or over who had served in the armies of the United States or who could read and write the English, French or Spanish language, or who owned real or personal property to the amount of two hundred fifty dollars, provided they had lived six months in the place in which they proposed to vote. But no person was to be allowed to vote who was of unsound mind, a pauper, or under conviction of an infamous crime.[23]

In 1866 the situation and the problem of caring for the liberated, roving negroes was serious. ''When the United States forces took possession of Macon the negroes were all declared free. . . . The fields were deserted by the laborers, and, almost in a body, the women and children employed as house servants in the city left comfortable homes, seized with a sudden passion for freedom. . . . The negroes flocked from the country into the city, and the result is what it is.''[24]

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[20] "Report of the Joint Committee on Conditions in the States Lately in Rebellion," in the 39th Congress, 1st Session, Volume 2, p. 3, April 30, 1866. [This report will be referred to later as *Ku Klux Reports*.]

[21] Speech of Mr. Fessenden, in the *Congressional Globe*, 39th Congress, 1st Session, part 1, p. 878.

[22] *Ibid.*, Speech of Mr. Hendricks.

[23] Proposed by Mr. Howard as an amendment to an amendment offered by Mr. Yates, in the *Congressional Globe*, 39th Congress, 1st Session, part 1, p. 915.

[24] *Southern Watchman*, January 30, 1866, quoting the *Macon Telegraph*.

The citizens of Georgia did not want the negro to vote. All legislation in Congress relative to it was the subject of indignant and vitriolic attacks by southern newspapers. One Georgia paper cited a test election, the results of which showed opposition to granting the right of suffrage to negroes in the District of Columbia, as being indicative of like sentiment throughout the Northern States.[25] Georgians considered that they were about to have something forced upon them that would not be accepted or relished by those who proposed it.

A State Convention of Freedmen met in Augusta early in 1866. This group drew up several resolutions to memorialize Congress. One resolution was that ''the freedmen of Georgia can more rightfully complain of the denial of the right of suffrage than those lately in arms against the constituted authority of the land complain of Congress for denying them a representation upon its floor.''[26]

On March 17, 1866, the Georgia General Assembly passed ''an act to define persons of color and to declare the rights of such persons.''[27] All negroes, mulattoes, mestizoes and their descendants, having one-eighth negro or African blood in their veins were called ''persons of color.'' The second section of this act granted such persons the rights to sue and be sued, make contracts, be parties in cases, to purchase, sell, lease, hold and convey real and personal property. It guaranteed them an exemption from ''different punishments'' from those set down for white persons. It also repealed all laws or parts of laws in conflict with it and granted the negro the ''full and equal benefits of all laws'' of the State. The right to vote was, of course, not granted, nor even mentioned.

The testimony of Alexander H. Stephens before a congressional committee reflected the attitude of the citizenry of Georgia toward the extension of the right to vote to the negroes within the State. He stated that the ''general opinion of the State is very much averse to it. . . . The people of Georgia, in my judgment, are perfectly willing to leave suffrage and basis of representation where the Constitution leaves it. They look upon the question of suffrage as one belonging exclusively to the States; one over which, under the Constitution of the United States, Congress has no jurisdiction, power or control, except in proposing amendments to the States and not exacting them from them.''[28] The general opinion of the State would, by a less judicious person than Stephens, have been given much more vigorously. The feeling in the State ran high at the prospect of meeting the negroes at the polls. The State was both disgusted and dejected over the prospect of the future. Some expected that the negro would ultimately vote.[29] Others held to the hope that the disposition of the question would leave the right to regulate the suffrage in the State's domain. One newspaper went so far as to say, ''The negro will not vote if the white people will it otherwise. It is for them to grant or withhold the privilege.''[30] It is doubted that many Georgians fully realized the dire condition in which the State was shortly to be found.

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[25] *The Southern Watchman* (Athens, Georgia), January 30, 1866. The result of this election was given as: For negro suffrage 35; against negro suffrage 6,566.

[26] *Ibid.*, February 14, 1866.

[27] *Acts of 1865-66*, p. 239.

Finally, however, on June 13, 1866, the Fourteenth Amendment was passed in Congress.[31] It came, in reality, as a result of the findings of the Joint Committee on Reconstruction. This amendment made all persons born or naturalized in the United States citizens of the United States and of the State of their residence. It prohibited the States from making or enforcing laws abridging the rights and immunities of citizens. The article provided for the reduction of representation of a State if the right of male inhabitants, twenty-one years of age, to vote for United States or State officers was abridged in any way except for rebellion or other crime. It made those who had participated in rebellion ineligible to hold office or be electors of President or Vice-President.[32] The provisions of this amendment attempted to make negro suffrage a fact in the South as well as the other States.

In November of 1866, the Fourteenth Amendment was proposed for adoption in the Georgia legislature, and on November

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[28] Quoted in the *Southern Watchman,* May 2, 1866.
[29] *Atlanta Daily New Era,* quoted in the *Southern Watchman,* June 6, 1866.
[30] *Southern Watchman,* June 6, 1866.
[31] *United States Statutes at Large,* Public Laws, Volume 14, p. 358.
[32] W. H. DePuy, ed., *Encyclopedia Britannica* (Chicago, 1895), XXIII, 1536, 1537.

13 the resolution of that body declining to ratify the amendment was approved. Georgia took the only course open to her under the Federal Constitution. In discussing the amendment a joint committee of the House and Senate stated that, if Georgia was not a State of the Union, the amendment did not properly come before her legislature, and if Georgia was a State, the amendment was not proposed according to the requirements of the Federal Constitution for conditions were imposed other than the simple ratification of the amendment.[33] Only two votes in the House (none in the Senate) were cast in favor of its ratification.

The Fourteenth Amendment caused great indignation and widespread disapproval in Georgia. The act of the legislature which sent back the proposed amendment, unratified, to Congress, played a profound part in the history of the suffrage in the State. Georgia might have been at that time re-admitted to statehood, had the amendment been approved. Georgia may be likened to the drowning person, refusing, in the expectancy of something of greater buoyancy, to clutch at the straw of the Fourteenth Amendment.

Ratification of the amendment would have opened two political courses for Georgia. One course would have been to accord the right of suffrage to the negroes, thus satisfying the intent of the amendment. Ostensibly, the other course would have meant abridging the right of the colored man to the suffrage and accepting a drastic cut in representation. Such a reduction would practically have halved representation of the State in Congress. Georgia could not have accepted the Fourteenth Amendment and legally have taken other than one of these two courses. They were equally repugnant to the people of Georgia. Evidently the State legislators mused that, if she refused both courses and rejected the amendment, any new provisions which might be forced upon her could not be more humiliating. They chose the possibility of light in the future to certain darkness at the moment by rejecting the proposed amendment.

The refusal of Georgia and nine other rebel States to accept the new amendment brought on "more efficient" legislation from Congress. Such Congressional leaders as Thaddeus Stevens and Charles Sumner were now confirmed in their opinion that the only way to effect their reconstruction program in the South was through permanent intrenchment of the negro in political rights equal to those of the white man. In accordance with these personal confirmations, the new Congress, with Stevens its recognized leader, pressed to completion the first Reconstruction Act on March 2, 1867.[34] This was followed on March 23 by the Supplemental Act.[35] Both acts were vigorously attacked by President Johnson in his veto messages, but both were passed over his vetoes. These acts left no room for doubt as to the course Georgia now had to follow to gain re-admission into the Union and to representation in Congress.

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[33] *Georgia House Journal,* 1866, pp. 67, 68.

Georgia did make an appeal by instituting a proceeding in the United States Supreme Court.[36] This attempt failed and the question of compliance with the Reconstruction Acts was not to be begged.

The act of March 2 placed the State of Georgia in the Third Military District. It provided for the election of delegates to a State constitutional convention. Electors of these delegates were to be male citizens of whatever race who had resided one year in the State. It enfranchised the negroes and disfranchised a number of those who had participated in the rebellion. The constitution adopted at State convention was to be submitted to the people of the State for ratification, and had to be approved by Congress before representatives would be admitted.

Undoubtedly the violent expressions of the Georgia people in their opposition to the Reconstruction Acts would have been avoided had the Federal legislators shown any disposition toward leniency or compromise. Had Congress not admitted the negroes indiscriminately to the enjoyment of the voting franchise, at the same time debarring a great number of the leading white men of the State, the course of the reconstruction undoubtedly would have been much smoother. Negroes were allowed to vote without being required to be able to read or write. Many of them did not know what a vote was or for whom they voted. Vast numbers of the colored people were released from the fields to play an important rôle in guiding the destiny of a State. The great majority of the negroes took to the vote as a child would to a new toy. Congress had lost the spirit of the Emancipator. Such a loss had its explanation.

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[34] *United States Statutes at Large,* XIV, 428.

[35] *Ibid.,* XV, 2.

[36] In the case of *The State of Georgia versus Stanton et al., United States Supreme Court Reports,* Wallace, Volume 6, p. 50.

The feeling at the North ran high against the unfair treatment of the liberated colored people. Many wanted the negro votes for an extension of political power. The majority of the Republican members of Congress held that the surest way to protect the rights of the negroes was to give them a voice in government through the ballot-box.

CHAPTER III

MILITARY RECONSTRUCTION—EVENTS LEADING TO THE FORMAL ADMISSION OF GEORGIA INTO THE UNION, FEBRUARY, 1871

The States of the South were not alone in their opposition to the indiscriminate grant of suffrage rights to the negro. The fall elections of 1867 in the North showed a revolt against similar negro suffrage extensions. Connecticut, New Jersey, Pennsylvania, Ohio and California became Democratic in anti-negro suffrage resolutions. ''If the colored vote was intolerable at the North where negroes were few and partially educated, how galling must the yoke have been where in some states the negroes were in the majority and all hopelessly ignorant.''[1]

Negro suffrage was a severe remedial measure to apply to conditions in the Southern States. As a means of restoring Georgia to vital statehood it did not succeed, as evidenced by experience in subsequent years. As a step toward educating the negro in citizenship it had some, but a very slight, measure of success. As an attempt to subjugate the State it met with only temporary and partial success. As a means of making the negro important, respected and protected, its results still remain in very grave doubt.

The Supplemental Act of March 23, 1867, and its companion bill, passed on July 19, provided for the registration of voters. In obedience to a general order from General Pope, commanding officer of the Third Military District, in whose hands registration was entrusted by the Supplemental Act, Georgia was divided into forty-four districts. Each district was given a registration board which was composed of two white men and one colored man. One of the white men was an agent of the military government. The boards were to give oaths to, and register, those who applied to vote, provided they were qualified under the Reconstruction measures. Five special boards were established, in Columbus, Macon, Savannah, Augusta and Atlanta.[2] Registration proceeded pursuant to this general order. The negroes who registered in Georgia were only slightly fewer in number than the whites.[3]

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[1] James E. Boyle, "Has the Fifteenth Amendment Been Justified?" in *The Arena* (May, 1904), p. 481-88.

Some elements of the Georgia press were hopeful of continued kindly feelings between the races despite the granting of the suffrage to the negroes. In only 45 counties of the 132 in Georgia did the blacks have a majority. ''We hope there is no reason to believe,'' writes one paper,[4] ''that the freedmen are going to array themselves against the whites in elections on account of race. We do not believe they will do such a thing. . . . Let the colored men, now that suffrage has been thrust upon them at the point of the bayonet, see to it that they vote for the men they believe to be the best qualified to fill office; and let them, above all things, avoid saying or doing anything which can get up any bad feelings between the two races. Although the whites believe that the majority of colored people are not now qualified to vote understandingly, they nevertheless know that it is not their fault that they have been declared voters, and hence they harbor no unkind feelings towards them on that account. Let the colored men see to it that they do not act in such a manner as to destroy present kind feelings between the two races.''

The military commander did all in his power to insure the negro's chance of exercising his new right to vote. Negroes who changed residence were allowed to vote in any county in the State, provided they procured a certificate of registration from the county in which they registered. The election to decide on the holding of a constitutional convention and choosing of delegates to it was set for October 29. It was to continue for three days, but this time was extended to November 2 to insure to the negro every chance of voting. The election returns showed practical unanimity on calling the convention. Many of the contests for delegates, however, were very bitter. In Clarke County, where the negroes had a majority of the registered voters,[5] Alfred Richardson and Matt Davis, colored men, were elected to the State Convention.

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[2] This order, published in several places, was found in the *Southern Watchman,* June 5, 1867.

[3] McElreath, *Constitution of Georgia,* p. 152 gives the figures as: White registered voters, 96,962, colored registered voters, 95,973, total registered voters 192,935; *The Southern Watchman,* October 2, 1867, places these numbers at: white, 95,303, colored, 93,417, total 188,720; C. Mildred Thompson, *Reconstruction in Georgia,* p. 186, gives the numbers of registered voters of 1867 and 1868, taken from a Report of the Comptroller General, 1869: white, 120,626, colored, 83,168, total, 203,894; Edwin C. Woolley, *Reconstruction of Georgia,* p. 39, gives: total registered voters 188,647 of which 95,214 were white and 93,457 were colored. These latter figures were taken from the official returns which were said to be inaccurate. The figures serve as an example of the unreliability of all figures on negro suffrage which are available.

[4] *Southern Watchman,* March 27, 1867.

General John B. Gordon favored a qualified suffrage for the negroes. He stated that he would not vote for their disfranchisement as a class, but he did wish some restrictions placed upon their voting. He believed that the unequal administration of the election laws also was unjust.[6] This attitude reflected the opinions of the leading citizens of the State. It has been generally agreed that the greatest and most violent opposition to the colored man's use of the ballot in Georgia came, not from the men of leadership, as a rule, but from the low class of white men with whom the negro laborer was in competition on the farms and in manual trades. It is true that such Georgia leaders as Benjamin H. Hill, Alexander H. Stephens and John B. Gordon strenuously opposed, to the limit of their abilities, the granting of the vote to the negro. But when it became an actuality they acquiesced in it with fair graciousness, although they never favored it. Further, all the white people and colored people were not arrayed against each other. Some negro leaders recognized the dangers of the uneducated negro electorate and the disfranchisement of leading white citizens.

An outstanding example of this spirit is found in an open letter from Henry Gwinn to his colored people. "The first question that arises under this state of affairs is: Are we prepared by education or otherwise to select the best men for office [and if not] to whom are we to look for advice and guidance on this question which so deeply involves the fate of our people? . . . With a few exceptions my people are not capable of the necessary discrimination; and this is not necessarily of any inferiority of race, as may be suggested, but is a result of what would be in any people the consequence of a long continued slavery and a general want of education. . . . Now, to whom shall we look for advice? . . . It is time that the North has struck the fetters from our limbs; but we are to inquire seriously as to this question, while we are bound in gratitude to thank them for this service, whether this action was the result of love to the colored man or of hatred to the rebellion and its adherents. . . . Your interests are identically those of the people of the South.''[7]

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[5] *Southern Watchman*, October 2, 1867. Whites, 880; colored, 1,109, in 1867.

[6] *Ku Klux Reports*, VI, pp. 304-349, testimony of John B. Gordon.

The so-called Conservatives in Georgia held several conventions in order to crystallize the anti-negro suffrage element in the State. On December 5, 1867, a Conservative convention was held in Macon. It appointed a committee of five to publish an address ''setting forth true sentiments of the white race of this State'' and the ''deplorable condition of the people.''[8] At a similar convention in Augusta ''. . . it was unanimously resolved that the South can and will accept nothing less than—'1st. Universal amnesty. 2nd. Impartial suffrage, predicated on such qualifications as will put the government in the hands of the intelligent and those who have property to be taxed. 3rd. The repeal of all test oaths as a qualification for office.' ''[9]

These efforts did not vary the course of the restoration as outlined by Congress. The negro voted and he had the full coöperation of the military authorities who were there to protect his rights and force full compliance with the Reconstruction Acts.

The constitutional convention met, pursuant to a general order, in Atlanta on December 9, 1867.[10] It is commonly referred to as the Constitutional Convention of 1868, for the major portion of the session fell in January, February and March of that year. The members of the convention formed an anomalous group. Few of the former leaders in the political life of the State were present.[11] On March 9, the convention passed a resolution providing for a State election to be held April 30 (later changed by military order to April 20) at which the qualifications for voters were to be ''the same as prescribed by the Act of Congress, known as the 'Sherman Bill,' for voters at the election on the ratification of the Constitution.'' At this election the people were to decide upon the adoption of the new constitution for Georgia, and to choose all civil officers.[12] On March 11, the convention adjourned.[13]

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[7] *Southern Watchman,* June 13, 1867.
[8] *Southern Watchman,* December 11, 1867.
[9] *Ibid.,* December 4, 1867.
[10] *Journal of the Convention of 1868,* p. 6.
[11] McElreath, *Constitution of Georgia,* 153-4.

The control of ''franchise and elections'' was placed in an article of ''miscellaneous provisions'' in the Georgia Constitution of 1865,[14] but it was given the whole of Article II in the Constitution of 1868.[15] Some of the provisions governing the elective franchise and elections were new while several were borrowed from earlier instruments. Section two of this article provided the qualifications for electors. Every male person born in the United States and every naturalized male person or one who had declared his intention, twenty-one years old or over, who had resided six months within the State and thirty days in the county in which he offered to vote, who had paid all taxes required of him for the year preceding the election, was deemed an elector. In addition, every male person of like age who was a resident of the State at the time of the adoption of this constitution was to be an elector, except that no soldier, sailor or marine could acquire such rights by reason of being stationed on duty in the State. No person, however, could vote who refused to take an oath that he had not interfered in any way with any vote, or allowed his own vote to be influenced.

The constitution disqualified from voting any who engaged in duels. It allowed the General Assembly to provide for the registration of voters, but idiots and insane persons, and those guilty of bribery, crime punishable by penitentiary imprisonment, malfeasance in office, embezzlement of public funds, or treason, were debarred from registering, voting, or holding office. Electors were privileged from arrest, except for high crime, five days before, during, and two days subsequent to an election. The sale of intoxicating liquors on days of election was prohibited. In section ten the legislature was enabled to enact laws for the protection of electors. Finally, it was provided that after the year 1868 the State elections would be held on the Tuesday after the first Monday in November.[16] In accordance with the Congressional Acts, Confederate leaders were disfranchised until after 1870. A large group of the leading white men were thus excluded from participation in civil affairs.

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[12] *Journal of the Convention of 1868,* p. 501.

[13] *Ibid.,* 526.

[14] McElreath, *Constitution of Georgia,* 315. Article V, Constitution of 1865

[15] *Ibid.,* 322, 323, 324. Article II, Constitution of 1868.

A military general order changed the date of the election, set for April 30 by the convention, to April 20, 1868.[17] Another order provided that persons who were electors could vote in any county in the State. It also provided for the purging of the registration lists in accordance with the Supplemental Act of Congress of July 19, 1867.[18]

Before the election in April the question of the eligibility of negroes to hold office in Georgia had become prominent in public discussion. Ex-Governor Joseph E. Brown held to the opinion that the negro had not been granted such a right. He said: "In March, 1867, Congress passed a law conferring upon [the negroes] the right to hold office. . . . Now, the new Constitution [of 1868] nowhere confers upon them the right to hold office by any express grant. . . . If any question arises about the rights, our courts can decide it. . . . [The negro] was born a slave, with no political rights and he can have none, except such as are conferred or granted to him."[19] This opinion which Brown held is hard to explain when it is considered that his opinion, later expressed as a Georgia Supreme Court Justice, was that the negro could hold office in Georgia.[20]

Negroes were elected to offices in the State. The man White, mentioned in the case referred to above, was a negro who had been elected as Clerk of the Superior Court of Chatham County. In the elections held on April 20, 1868, twenty-eight negroes were elected members of the Georgia legislature. This body convened on July 4. In June Congress had passed an act admitting Georgia to representation and restoring the State government on the condition that she ratify the Fourteenth Amendment.[21] The State complied by passing the amendment on July 21. But there was to be another rupture between Georgia and Congress, for, on September 3, the House of Representatives of Georgia adopted a resolution expelling twenty-five negro members. It was decided in that body that, under the laws in existence in Georgia at the time of the adoption of the Constitution of 1868, colored persons were not privileged to hold office in the State, and that the Constitution of 1868 continued these laws.[22] There was strenuous opposition to the measure which expelled the colored members. The members in question were granted the floor to speak in their own behalf, and several speeches were made for them by white men, but the House resolution prevailed.

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[16] McElreath, *Constitution of Georgia*, p. 322, 323, 324.

[17] General Order number 39, in the *Atlanta Daily New Era*, March 15, 1868.

[18] General Order number 40, in the *Atlanta Daily New Era*, March 25, 1868.

[19] Joseph E. Brown in a speech delivered at Marietta, Georgia on March 18, 1868, reprinted in the *Atlanta Daily New Era*, March 25, 1868.

[20] In the case of *Richard W. White vs. William J. Clements*. Decision rendered at the June term of the Supreme Court of Georgia in 1869. *Georgia Supreme Court Reports*, XXXIX, 232.

When Congress convened in the following December, it refused to admit the representatives of Georgia. Governor Bullock stated in Congress that there was no "free expression of political opinion" in the State. He asked Congress to give aid in righting the conditions there existing. In response, Congress, on December 22, 1869, passed a bill requiring Governor Bullock to reconvene the Georgia legislature, with the colored members restored to their seats, to ratify the Fifteenth Amendment which Congress had proposed on February 24. This the legislature was required to do to entitle Georgia to Congressional representation. The act declared that "the exclusion of any person or persons . . . from participating in the proceedings of said Senate or House of Representatives [of Georgia] upon the ground of race, color or previous condition of servitude would be illegal and revolutionary and is hereby prohibited."[23]

It was in June of that year that the Georgia Supreme Court had reversed the decision of the Court of Chatham County and declared the negro eligible to hold office in Georgia. A resolution pledging the Georgia Senate to abide by this decision had been voted down 12 to 20. The House had refused to entertain a similar resolution. But when the State legislature met on January 10, 1870, there was a general reorganization, some of the negro members were reseated, and, by acts approved on February 2, the Fourteenth and Fifteenth Amendments were duly ratified.[24]

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[21] The Omnibus Bill, June 25, 1868, *United States Statutes at Large,* XV, 73.

[22] *Georgia House Journal,* 1868, p. 242, 294.

[23] A Bill to promote the Reconstruction of Georgia, December 22, 1869 *United States Statutes at Large,* Public Laws, XVI, 59.

On July 15, 1870, President Grant signed the bill which finally restored Georgia to statehood.[25] Georgia was now formally restored in the Union in accordance with Congressional legislation. The restoration of her inner life was yet to be effected. Negro suffrage, it seemed, had been accepted by the people of Georgia only as a means of gaining re-admission to civil rights as a State in the Union. They found it very difficult to accept the drastic change made by the admission of such a vast group to the suffrage. They were not able to forget conditions which existed immediately following the war—conditions which then were not greatly ameliorated. Encounters between whites and blacks left indelible impressions and were not easily erased from the memories of either race. And now the white people were interested in how to nullify the effects of the Congressional grant of the suffrage to the negroes.

A reputable newspaper, in 1868, evidently overlooked some of the essential facts in the situation when it printed: ''The Republican party establishes no new doctrine in regard to suffrage. It recognizes in Congress no control over suffrage in the States. It leaves the matter precisely where it found it, in the Constitution of the United States. Georgia or South Carolina—being states of the Union—may make such amendments to their constitutions as they see fit, in regard to suffrage or anything else, just as Ohio or New York may. . . . It is a mistake, therefore, to say that the national government, in Republican hands, is to force negro suffrage or any other suffrage, upon the Southern States or any other States, without regard to the will of their people. Suffrage remains . . . in the hands and under the control of the people of the States themselves.''[26] Such support of the Congressional legislation of 1866-1870 was unfounded when the methods of force used in submitting the war amendments are considered. Congress did not propose the amendments as provided in the Federal Constitution. Nor was the method of ratification legal. Congress had enfranchised the negro to decide whether or not he should be enfranchised.

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[24] *Acts of 1870,* Resolutions 1, 2, pp. 491, 493.

[25] *United States Statutes at Large,* XVI, 363, 364.

[26] *Southern Watchman,* December 2, 1868, quoting the New York *Times.*

Accounts of incidents, taken at random from various sources, show great conflicts of ideas and opinions as well as actual conflicts and violence during the period of the reconstruction. But even then there were signs leading to indulgence in the hope for greater understanding. A few accounts may help complete a visualization of the conditions then existing.

An account from Clarke County shows that the feeling between the races ran high. "Who are your representatives, people of Clark? The people have none. The niggers have elected mat davis and alfred richardson. [sic.] The niggers did the voting—all kinky-headed, except about a dozen. . . . One of the tricks relied upon was the collection of all the vile negroes who could be gathered in front of the Town Hall in solid columns, so as to disgust and drive from the polls as many whites as possible, and, furthermore, compel all negroes who wanted to vote the Democratic ticket to 'run the gauntlet' and if possible dissuade them from doing so. . . . We cannot pretend to enumerate a tithe of the villainy openly practiced and attempted here. It is heart-sickening and disgusting beyond anything we ever conceived of before."[27]

"Whenever a colored man appeared with a Democratic ticket he was set upon and badgered by the Leaguers[28] until he was forced either to retire from the polls or vote the radical ticket."

In September of 1868, Alexander H. Stephens of Georgia was asked how the Southern people would act with regard to universal suffrage in the event of the success of the Democratic national nominees, Seymour and Blair. He answered that they would "abide by judicial decisions; and there is little doubt that all this party legislation to secure power would be overthrown. Conventions would be called and the people would regulate suffrage as best they thought proper. I believe a system of qualified suffrage on an educational basis would be generally adopted in the South in such an event.'' He expected no trouble in that presidential election ''except when it is provoked by the unprincipled whites who have associated themselves with the negroes to get office. . . . There might be among [the negroes] men who would under the inspiration and guidance of the whites clamor for the right of suffrage; but [they would be] so rare as to be scarcely noticeable.''[29]

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[27] *Southern Watchman*, April 29, 1868.

[28] *Augusta Chronicle*, quoted in the *Southern Watchman*, April 29, 1868. The Union League of America had been organized in Ohio in 1862. Members of the League had pledged themselves to uncompromising loyalty to the Union and a subordination of their political views to this loyalty. The League favored negro suffrage and the disfranchisement of Confederates. It numbered among its members a great number of negroes—and many white men. By extension behind the Union army, numbers of local organizations of this League were established. It became violently opposed to the Democratic party and the Ku Klux Klans. [AUTHOR.]

Disturbances occurred in Madison County at this election. ''. . . The facts are these: that some citizens of this county hired for money and citizens clothes, a deserter from the United States army to pass upon the freedmen spurious tickets. We also state thirty-one of the freedmen were deceived, as they thought they were voting for the constitution, when their ballots were against the constitution. The casting out of these thirty-one votes alone defeated Mr. Mattox [the candidate for representative from Madison County].''[30]

An open fight occurred at Camilla, Georgia. A procession of several hundred armed negroes, collected in the vicinity of Camilla entered the town. They were warned away by the sheriff, Mr. Poore, but did not heed the warning. These negroes were led by candidates for office. John Murphy, a candidate for Congress, and Phil Joiner and Putney, local aspirants, were among them. The column of negroes was fired upon on entering the town. Six white citizens were wounded. Two negroes were killed and an unknown number of the invading band was wounded.[31]

''The majority of the registered black voters . . . , at least seven hundred in number [in Wilkes County] voted with the white people. And the remaining six hundred with very few exceptions declined to vote at all, many of them stating only that they would cease to act a part against the white people in a matter of which they knew nothing. These facts are great ones for us. . . . They are no longer arrayed against us and [are] trusting their own political condition in our hands. . . . Let us not deceive them in their trust, but be true to their best interests as well as our own.''[32]

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[29] Alexander H. Stephens, in an interview with a correspondent of the New York *Herald,* quoted in the *Southern Watchman,* September 16, 1868.

[30] From the election board managers of Madison County (Danielsville, Georgia) in a letter to the *Southern Watchman,* August 12, 1868.

[31] From a sworn statement by citizens of Camilla, in Mitchell County, concerning the fight, printed in the *Southern Watchman,* September 30, 1868.

Affairs went along quietly and with great accord of opinion in an Atlanta Municipal election. ''An election for Mayor and alderman was held on Wednesday last. . . . There were only 985 votes cast—all for the Democratic ticket.''[33] It is likely that few negroes participated in this election.

The Democrats, too, were accused of unjust election practices. ''In [the] December, 1870, [elections] General Toombs took an active part. The election law was ignored and defied by him and his Ku Klux in the Fifth Congressional District. Election managers were imprisoned, votes of colored men were refused and the result was the return of General Toombs' son-in-law as a member of Congress for a district having a majority of over three thousand colored votes. . . .''[34]

Benjamin H. Hill stated there was no greater crime in Georgian than in other states of equal population. He implied that the Republican party adopted unfair methods and charged that Governor Bullock, the Republican leader in the State, had been elected by a fraudulent count of votes in the election of April 20, 1868.[35]

Alfred Richardson was a negro elected to the Constitutional Convention of 1867-68 and to the first Georgia legislature under that constitution. He stated that there was no violence at or around the polls but that intimidation was ''done beforehand.''[36] He said, ''I think my case [referring to a personal attack on him by white men] is the only political case, as folks suppose.''[37] ''Several of [the negroes] say that excepting they can get protection against these disguised men, they do not intend to vote any more. They tell me they are afraid to vote the way they want to vote.''[38]

Ex-Governor Joseph E. Brown considered that political affairs had little to do with the outrages in Georgia. He stated that these met ''the condemnation of the better part of society.''

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[32] From the *Washington* (Georgia) *Gazette,* quoted in the *Southern Watchman,* November 25, 1868.

[33] *Southern Watchman,* December 9, 1868.

[34] *Proceedings of the Committee to Investigate the Charges of L. N. Angier Against R. B. Bullock.* (Atlanta, 1872).

[35] *Ku Klux Reports,* VI, 752-810. Testimony of Benjamin H. Hill.

[36] *Ibid.,* VI, p. 14, Testimony of Alf. Richardson.

[37] *Ibid.,* VI, 17.

[38] *Ibid.,* 10.

He also recognized a "want of sense of moral obligation on the part of negroes. . . . The great mass of white voters are opposed to giving [the negroes] political rights."[39]

C. D. Forsyth, solicitor-general of the Rome Circuit, held that, "The men who are disfranchised can stop these outrages in twenty-four hours." He thought the removal of political disabilities would be a wise move.[40]

By one means or another the political power in the State reverted into the hands of the white people. Where there were twenty-eight negro members in the State legislature in 1868, in 1872 only four negro representatives and no negro senators were elected. At this time, too, a Democratic governor was elected without opposition.

The wisdom of the reconstruction legislation of Congress, including the Fourteenth and Fifteenth Amendments and the several Reconstruction Acts, is gravely doubted in the light of immediate and subsequent politics and conditions in Georgia. This legislation precipitated too suddenly a greatly changed political life on a warworn commonwealth. All of the results, certainly, were not desirable.

The practical result, almost immediately realized, was that the political power of Georgia, a State lately in rebellion, was increased, while the population conferring this increase was, after an almost momentary enjoyment of it, denied all political power. The State was set back in its growth, race prejudices were greatly augmented and the economic status of individuals and of the State lowered, while Congress was making attempts at securing the Union.

All told, however, it is realized that, though the legislative job was badly done, some of the acts proved to be, if not through the interest of their authors, humanitarian efforts toward a praiseworthy goal.

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[39] *Ibid.*, 810. Testimony of Joseph E. Brown.
[40] *Ibid.*, 19-43. Testimony of C. D. Forsyth.

CHAPTER IV

THE COMPLETION OF A DECADE OF SUFFRAGE CONTENTION—TO 1877

Legally, the Fifteenth Amendment took effect in all the States on March 30, 1870. Actually, in some States it has never been as forceful as its framers designed it to be. The wishes of the people of the Southern States were, in the main, against its forceful operation. The idea paramount in the minds of leaders in these States was that white supremacy had to be maintained for the good of Southern commonwealths to the extent of disregarding, in effect, if not always with such an avowed purpose, the provisions of the Fifteenth Amendment. These Southern States were setting out to accomplish an effectual nullification of the war measures of Congress. From the outset they employed nearly identical methods of attack.

A reduction of political activity among the negroes and the influence of their vote was to be expected. It came as a natural consequence of the passing of Republican ascendancy. The election of a recognized Democrat to the Governorship of Georgia in 1872 signalled the beginning of the end of negro political power in the State. This election marked, further, the end of negro participation to any appreciable degree in the government of the State. The accompaniment of the gubernatorial election was the return of a State legislature which was and would continue to be dominantly Democratic. In it there was a mere handful of "radicals" and negroes, the Democrats easily holding a working majority.[1]

In Georgia during the decade beginning with 1867 the gamut of negro suffrage was run. The negroes had been given the vote in 1867 and had wielded considerable influence in the politics of the State for four years. During the remaining six years of this decade factors of varying degrees of justice and of varying effect were to operate to eradicate the political power of this group. The most significant among these factors were to be the activities of the Ku Klux Klans, judicial decisions in two cases in the United States Supreme Court in which the Fifteenth Amendment was defined, and the passage of laws in Georgia, culminating with the adoption of the Georgia Constitution of 1877.

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[1] *Atlanta Constitution*, October 13, 1872.

Activity on the part of members of an organization known as the Ku Klux Klan had been very noticeable in Southern States immediately following the Civil War. By 1870 such activity had become widely known and widely denounced. Sometimes the illegal acts of this organization were due to political encounters between the races, but often they were not. Often these acts were the results of social grievances.

By 1871 the activity of the Ku Klux Klan had become so violent that an investigation was ordered by Congress. Accordingly, a congressional investigating committee, composed of seven members from the Senate and fourteen from the House of Representatives, was appointed. This committee conducted its investigation through sub-committees, by having them take testimony from hundreds of witnesses in the Southern States. Over 150 witnesses were subpoenaed in Georgia alone. This number included both white and negro leaders in the State. Testimony was heard from the Georgia witnesses in Washington between July 7 and July 27, 1871, and in Atlanta between October 20 and November 8 of the same year. The tangible result of the investigation conducted by this committee was the publication of its report, which was followed in some States by proclamations of warning to citizens from President Grant. Such proclamations threatened a suspension of the writ of habeas corpus if order were not restored.[2]

A review of the testimony taken by the Georgia Sub-Committee yields a fair indication of political conditions in the State at that time. Some witnesses testified to numerous outrages committed against the colored people.[3] A number of those who testified stated that the extent of these outrages had been greatly magnified. These held there was no greater average of crime in Georgia than in any other State in the Union.[4] Some witnesses claimed that the violence of the Klan could be directly connected with political affairs,[5] while others refused to make an admission of any connection between politics and the activity of the Klan.[6] It is certain that the accounts of all these outrages were not fiction—that they did exist, although reading testimonies of several witnesses confirms the fact that conditions were greatly exaggerated in personal accounts of the incidents. In a number of instances the testimony taken from both white and black leaders by the Georgia Sub-Committee was easily impeachable. There is no doubt, however, that this period in Georgia was replete with cases of violence, intimidation, bribery and undue influences in political affairs as well as in the general course of community life. It must not be forgotten that violence was not the only method employed to stop the negro from exercising his right to vote. The negro vote was easily influenced.

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[2] *Report of Testimony taken by the Georgia Sub-Committee on Ku Klux Conspiracy,* in 1871-72, 42nd Congress, 2nd Session. Reports number 41, part 6, and number 22, part 7, relate to Georgia.

[3] *Ibid.,* VI, pp. 10, 11; 17, 19-43; VII, pp. 607-9.

These conditions which brought on the eradication of the negro vote were to develop Democratic apathy in the State. In the special election held on December 19, 1871, very little enthusiasm was shown, and the absorbing topic, "election," was lost. Newspapers did not publish returns of elections, where heretofore they had carried advice, party tickets and campaign utterances several weeks before elections, and had developed graphic outlines and printed official returns of the voting for weeks after elections had taken place.[7]

The results of elections, so far as party victories were concerned, were foregone conclusions, for even at this early time the State was being strengthened for the solid Democracy. In the election of December 19 a Republican candidate for governor was not proposed. There seems to be no doubt that the fraud which attended the Bullock régime during the reconstruction had done a great deal to hurt the Republican party, but, beyond this, there was a growing determination in the State to destroy any semblance of Republican organization.[8] The great decline in negro voting came at this election. The majority of the negroes had regularly voted the Republican ticket under any and all conditions. Since that party did not offer a candidate in 1871, a great number of the registered negro voters did not go to the polls, and those who did go found it possible only to vote for a Democratic governor.[9]

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[4] *Ibid.*, VI, pp. 425-59, 623.
[5] *Ibid.*, VI, pp. 17, 18, 810-28, 19-43; VII, pp. 607-9.
[6] *Ibid.*, VII, pp. 623 ff; VI, 423-34, 823.
[7] *Constitution*, December 19, 1871.
[8] *Constitution*, December 23, 1871.

By an amendment to the Georgia Constitution an attempt was made to legally reduce the negro vote in the State. Citizens were well acquainted with the fact that the negro was not bound by strong ties in any community, for he liked to rove too well to settle permanently in any locality. The Georgia legislature probably recognized these characteristics of the negro population, for, on February 24, 1873, it passed an act to change the residence in the State from six months to one year, and in the counties from thirty days to six months.[10] The exact reduction of the number of negroes voting accomplished by this amendment cannot be determined.[11]

In this year there were 192,625 paid polls in Georgia. Of this number, 82,790 were polls of colored persons. But these figures give no indication of the number of negroes who registered or who voted, for a poll tax was then, as now, required of all male persons between the ages of twenty-one and sixty, regardless of their offering to vote.

By this time political interest among the white people was growing and demanding more stringent regulation of the suffrage. The act changing residence requirement referred to above was a forerunner of this spirit which extended to the Constitutional Convention of 1877. On January 22, 1874, a resolution of the General Assembly created a joint committee in the legislature to receive bills of members and report on needed amendments to the State Constitution. Three members of the Senate and seven members of the House of Representatives constituted this committee. Its work materially added to the demand for a convention to amend the constitution.

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[9] A record showing the votes of negroes in this election was not found. It is reasonable to decide, on the basis of newspaper accounts at this time, however, that there were a much smaller number voting in 1871 than in 1867 and 1868.

[10] *Acts of the General Assembly*, 1873, p. 25.

[11] The archives of Georgia do not reveal any returns of elections during this period. Neither have registration figures been preserved. A later act of the General Assembly provided for the quadrennial destruction of all election returns in the office of the Secretary of State. County office records are not preserved.

In the elections of 1874 the negro vote was practically powerless. This is evidenced by the fact that in only three counties was their voting strength great enough to elect representatives. One negro representative was elected to the lower house from McIntosh County, one from Glynn County and one from Liberty County. Their vote was of sufficient influence to elect four white radicals in other counties. The composition of the Georgia legislature elected in 1874 gives the clearest idea of the curtailment of negro suffrage in the State. There are no State records in existence to show the actual numbers of negroes voting.[12] At this time there was a total of 219 members in both houses of the Legislature—175 in the House and 44 in the Senate. The classification of members as given in the press at this time included four factions, the Regular Democrats, Independent Democrats, Negro Radicals and White Radicals. In the Senate 41 of the 44 members were Regular Democrats, two were Independent Democrats and one was a White Radical. There were no negro Senators. In the House the Regular Democrats were firmly intrenched, 156 of the 175 representatives being members of this party. Of the remaining 19 members, 12 were Independent Democrats, four White Radicals and three Negro Radicals. As a result of these divisions there was a majority of 41 Regular Democrats to three of the ''opposition and doubtful parties'' in the Senate, while in the House this majority was 156 to 19. The ''opposition and doubtful parties'' included Independent Democrats, White Radicals and Negro Radicals.[13] It is easily seen from these figures that the way was clear for the Democrats to regulate the suffrage as they saw fit. They did not delay very long in placing additional restrictions that would have the effect of reducing the negro vote. By December, 1874, the virtual destruction of the Republican or ''radical'' party had been accomplished. This fact was recognized by the press of the State: ''[Here] is the ticket selected by the Democratic party . . . which will of course be elected as there is no opposition, and would be if there was.''[14] ''There is no doubt, from information that we have received, that a very considerable portion of the colored vote in this State will support the Democratic ticket. . . . [Radical] domination has been based entirely upon the prejudices of the colored people, unscrupulously inflamed by the radical party through the agency of falsehood and deception.'"[15]

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[12] Neither the county officers in Clarke County, nor the office of the Secretary of State, nor the State Department of Archives and History could furnish registration or election figures for this period.

[13] *Constitution,* October 17, 1874.

[14] *Ibid.,* December 2, 1874.

The attitude of the press here touches upon a salient fact that is often overlooked in controversies upon negro suffrage. It must be recognized that it was a small number of negroes whose participation in elections at this time was because of a consciousness of civic duty. It is not reasonable to assume that a race so recently liberated from servitude as an inferior class could immediately develop such a pride or consciousness. Although it is known that great numbers were forced to relinquish their suffrage rights through intimidation and fear of personal injury, it must also be seen that the great group had not yet developed a potent desire for suffrage rights as a chance to perform a civic duty.

The clear way of the Democratic party to virtually unopposed discrimination in suffrage matters was made even clearer by two decisions of the United States Supreme Court, rendered in 1876. These two decisions were definitive of the scope of the Fifteenth Amendment. In the case of the *United States vs. Reese, et al.*, the court held that "the Fifteenth Amendment does not confer the right of suffrage upon anyone. It prevents the States of the United States, however, from giving preference, in this particular, to one citizen of the United States over another 'on account of race, color or previous condition of servitude.' "[16] In the second case, the court's opinion was that "the right to vote comes from the State, but the right of exemption from the prohibited discrimination comes from the United States. . . . The right of suffrage is not a necessary attribute of national citizenship."[17]

These decisions rendered in the Supreme Court gave strength to the possibility of the State's further nullification of the provisions for negro suffrage which the Fifteenth Amendment had made. It is clear that these interpretations of the purposes and provisions of this amendment were not strictly those of the framers of this article. It was the purpose of those who helped in the passage of this amendment, as shown in a quoted speech of Thaddeus Stevens, that negro suffrage be forced upon the Southern States as the way to insure their fealty to the Union, and enforce protection of the negroes. It was not their intention to leave the regulation of the right of suffrage with the States. Obviously, if such were their purposes, a constitutional amendment, stated negatively, was not the necessary, or the effective way of driving toward this end. The Federal Constitution had left the regulation of the suffrage to the legislatures of the states.

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[15] *Ibid.*, October 4, 1876.

[16] *United States Supreme Court Reports*, Volume 92, p. 217.

[17] *United States vs. Cruikshank*, in *United States Supreme Court Reports*. Volume 92, p. 556.

Regardless of what the intention of the framers of the Fifteenth Amendment might have been, a majority of the Georgia people were now working toward the nullification of its power to extend suffrage to the negro. The elections of 1876 in Georgia did not materially alter the composition of the legislature. Only four negro representatives were sent to the state legislature —one each from Dougherty, Lee, Glynn and Liberty Counties. The number of White Radicals was decreased slightly. But the legislative power of the Regular Democrats was not reduced, and the legislature remained dominantly Democratic. It was no great surprise when, on February 26, 1877, the Democratic legislature passed ''An act providing for the holding of a convention of the people of Georgia for the purpose of revising the Constitution of said State.''[18]

The Convention held its first meeting in Atlanta on July 11. Soon after its preliminary organization had been accomplished, a standing Committee on Elective Franchise was appointed for the Convention, and all resolutions, ordinances, amendments and memorials concerning this franchise were referred to it without debate.[19] ''An ordinance reciting that no one shall be deprived of his right to vote by reason of his inability to pay his taxes'' was introduced, and was referred to this committee.[20] An ordinance disfranchising persons convicted of offenses "involving moral turpitude,"[21] and another adding larceny as a disfranchising offense[22] were also referred to this committee. Numerous other measures were proposed to regulate the exercise of the right of suffrage.[23] But the important consideration here is the finished article on Elective Franchise—Article II of the Constitution of 1877.[24]

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[18] *Acts of the General Assembly*, 1877, p. 26-28.

[19] *Journal of the Constitutional Convention of the People of Georgia*, held in Atlanta in the months of July and August, 1877 (Atlanta, 1877), p. 31.

[20] *Ibid.*, 51.

The provisions of this Article were not vastly different from those of the Constitution of 1868. The provisions made by an act of the General Assembly in 1873, increasing the required residence of voters to one year in the State and six months in the county, were incorporated in Section Two of this Article.[25] Conviction of bribery and larceny was added to the enumeration of disfranchising offenses in this same section. The new constitution altogether made fewer provisions for the protection of the rights of negroes than had been made in 1868.[26] The oath required by Paragraph Two of Section One of the 1877 instrument was greatly different from the oath required in the Constitution of 1868. In general, however, the regulation of the elective franchise in Article Two of the Constitution of 1877 was largely the same as that under the Constitution of 1868. It was not the framework of the vital laws of the State which deprived the negro of the vote. Rather it was the administration under these laws and, too, the operation of powerful unwritten laws, which accomplished the vast reduction of negro political power in the decade between 1867 and 1877.

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[21] *Ibid.*, p. 42.
[22] *Ibid.*, 55.
[23] *Ibid.*, 56; 57-58; 71; 72-74; 79.
[24] *Ibid.*, 580-582.
[25] *Ibid.*, 580, Article II, Section 1, Paragraph 2.
[26] McElreath, *Constitution of Georgia*, 323. "The General Assembly shall enact all laws giving adequate protection to electors before, during and subsequent to elections.

CHAPTER V

MOVEMENTS TOWARD DISFRANCHISEMENT

The people of Georgia were concerned with the security of the Democratic party, which meant shutting out the Republicans, white or negro. The people were apprehensive of the results of these efforts to maintain the supremacy of the white race. They were victorious now, but the very ease of their victory caused a fear of too great a feeling of security and a subsequent crumbling of party lines. They realized that reconstruction had welded the Democratic party into unity. The newspapers warned people against too great a reliance on the lasting dominance of the Democratic party. During this period negro suffrage rights were more and more restricted. A treatment of the negro suffrage during the years between 1877 and the present cannot reject a consideration of the moves made by the Democratic party, for this party controlled the suffrage in Georgia. The newspapers continued their warnings. One newspaper realized that "The large numerical majority of the democracy in the state has begotten a feeling of security and a disregard of the principles that won success. This sense of security appears to be drifting us steadily towards the dissolution of our party bond, and the ultimate triumph of our political enemies in our own state. . . ."[1]

A similar attitude of discouragement was reflected in the northern press at this time, but it was for exactly opposite reasons. One paper printed: "There is not hope that [the negroes] will be allowed the representation to which by their numbers they are entitled; but their votes will be in demand, and rival white leaders will see to it that they are to some extent protected in their political rights—that is, provided they do not attempt to vote for a straightout republican. In their undoubted right to cast such a vote they will never be protected by the white men of this state [Georgia]. The democrats are willing to acknowledge that they are citizens so long as they exercise the rights within what is significantly called 'the proper limit'; that is to say, so long as they make no attempt to reorganize the republican party in Georgia.'"[2]

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[1] *Atlanta Constitution,* October 10, 1878. This is an excerpt from an *Address of the State Democratic Executive Committee* to the people of Georgia, signed by nine members of this committee.

The statement of the situation given in this editorial was a fair one. The negro vote was counted when needed and at these times it was no more than any other economic good, to be bartered for, bought, and sold to the highest bidder. This state of affairs in Georgia had become serious. The oath required of citizens who presented themselves for voting in 1868 had been set down in the Constitution. It included the statement, "I do swear that I have not given or received, nor do I expect to give or receive, any money, treat, or other thing of value, by which my vote, or any vote, is affected. . . ."[3] But the Constitution of 1877, under which the State was operating, omitted this oath. The reason for this omission does not appear, for in 1879 the General Assembly passed an act to amend the Code of 1873, which provided, "A punishment for buying or selling, offering to buy or sell, or being concerned in buying or selling, a vote, and for voting unlawfully at any election in this State." The amended act made disfranchisement the penalty for violation of this section of the Code.[4]

The question of the disfranchisement of negroes was attracting the attention of practically the entire nation. The seriousness of the situation was very generally recognized.

One northern spokesman claimed that "the experiment by which the negro is now being judged has not been a fair one. When enfranchised, he was made to feel that he owed servitude to a party; . . . It must be known to all that the late amendments will not be, cannot be, repealed. . . ."[5] Another stated that "if the question were again submitted to the judgment of Congress, I would vote for suffrage in the light of experience with more confidence than I voted for it in the light of an experiment. . . . The one sure [way of remanding] the states that rebelled against the Union to their autonomy was to give suffrage to the negro. . . . The ballot today imperfectly enjoyed as it is by the negro . . . , illegally curtailed . . . , its independence ruthlessly marred . . . , its purity defiled, is withal and after all the strong shield the race has against a form of servitude which would have all the cruelty and none of the alleviations of the old slave system. . . .''[6] A Southern man thought ''Mr. Blaine [failed to realize or make due allowance for] this sudden transformation, social and political, [which] would necessarily produce some jar in its practical operation [and that] its successful working could be effected only by experienced men acting on both sides with good sense and good temper.''[7]

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[2] *Atlanta Constitution,* November 1, 1878. This editorial is quoted from "Colored Voters After 1880," Howard Carroll, in the *New York Times.*

[3] McElreath, *Constitution of Georgia,* 322, Article 2, Section 2, Constitution of 1868.

[4] *Acts of the General Assembly,* 1879, p. 157.

[5] *"Ought the Negro to be Disfranchised? Ought He to Have Been Enfranchised?"* These two questions were asked of some of the outstanding men in the United States by *The North American Review.* This symposium was published in *The North American Review* (March, 1879), Volume 128, pp. 225 ff.

James A. Garfield said, ''. . . I answer these questions by saying that on every ground of private right, of public justice, and national safety, the negro ought to have been enfranchised. For the same reasons, strengthened and confirmed by our experience, he ought not to be disfranchised.''[8] Wade Hampton thought and wrote that ''The wrong of disfranchising him would be as great as that inflicted upon us in the first instance when universal suffrage was given to him while he was yet utterly unprepared to exercise it.'' Hampton did not favor the original enfranchisement on the grounds that, first, ''the mode that was pursued, if not unconstitutional, was certainly extra-constitutional,'' and, second, that the negro at that time was ''totally incompetent to exercise or even understand the rights conferred upon him.''[9] Montgomery Blair claimed, ''. . . Negro suffrage has, in fact, never existed,''[10] while Wendell Phillips stated that ''Negro suffrage has not been a failure. . . . Every investigation of Southern fraud has shown him less purchasable than the white man. . . .''[11]

In Georgia the constitutional requirement of a poll-tax for educational purposes, amounting to one dollar per capita, did practically keep several thousand colored voters from the polls.[12] The constitutional provision, also, making conviction of felony a forefeiture of the franchise, probably excluded more colored voters than whites.[13]

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[6] *Ibid.*, 227.
[7] *Ibid.*, 232.
[8] *Ibid.*, 250.
[9] *Ibid.*, 243.
[10] *Ibid.*, 264.
[11] *Ibid.*, 257.

But aside from these legal provisions, fraud was openly practiced at the polls. ''Money was freely exhibited and offered for votes and as freely and as openly taken. The price of a vote ranged from ten cents to five dollars, according to the desire of the purchaser to obtain the vote and the estimate put by the seller upon the value of the franchise. Hundreds of votes were thus openly disposed of in plain view of everybody. . . .''[14] ''Votes were openly bought and sold with money and whiskey as a price—one hand holding the vote and the other stretched out for the reward.''[15] These conditions may account for the increase in negro voting in 1880. ''The returns show that the negroes have grown in voting power . . . , though there is not the increase that was expected from the dissolving of party lines.''[16] Georgia's electoral votes were cast for the Democratic presidential nominees, and the popular vote plurality for Colquitt, the regular Democratic nominee for governor, was 55,000. ''The colored voters in Atlanta who supported Governor Colquitt [proposed] to have a grand jubilee. . . .''[17]

Numbers of accounts of political conditions between 1875 and 1905 refer to the buying and selling of votes of negroes. As the conditions are pictured in these accounts, an agreement is certain that the greater amount of buying of negro votes was done by the Democratic party. As a result the bulk of the negro vote in these years went to that party.[18] In many elections, where large numbers of negroes were present at the polls, the colored vote decided the issues.[19] As a rule, this fact gave a decided advantage to the Democrats, for that party was the richest party, and its candidates could better afford to make disbursements to negroes for their votes.[20]

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[12] *Ibid.*, 251.. This is the opinion of Alexander H. Stephens in which others concurred.

[13] *Ibid*, 252.

[14] *Ibid.*, 252, 253.

[15] *Ibid.*, 252. This is an extract from the *Augusta Evenings News*, quoted by Alexander H. Stephens.

[16] *Atlanta Constitution*, October 8, 1880.

[17] *Ibid.*, October 10, 1880.

[18] Mrs. William H. Felton, *My Memoirs of Georgia Politics* (Atlanta, 1911), pp. 656, 661, 663; Alex M. Arnett, *The Populist Movement in Georgia* (New York, 1922), pp. 43, 153, 154, 183, 184. This same point was emphasized in interviews with old residents and active politicians in North Georgia during the period in question.

[19] Felton, *Memoirs of Georgia Politics*, 666; Arnett, *Populist Movement in Georgia*, 42, 43, 151, 153, 154, 183, 192.

In this period two new movements in Georgia politics were seen. The influence of the Populist party, and of its predecessor, the Independent Democratic party, was perceptible, but evanescent. The end, reached before 1900, saw the absorption of the two movements by the "regular" Democrats. For a number of years, roughly between 1874 and 1896, one or the other of these parties elected officers. As stated, however, both factions were finally swallowed up by the Democratic party. The fear of negro domination in politics, through the exercise of voting rights, was the main reason for this re-unification.[21]

Buying of negro votes was not the only fraudulent method resorted to by political factions in their endeavor to control or, failing to control, to eradicate, the negro's political influence. Stealing of ballot boxes, using of the well-known "tissue ballots," and various forms of intimidation of negroes at the polls or before election days, were some of the methods resorted to.[22]

The Republican party was in an anomalous state during this period. The hated carpet-baggers had been forced out of the state, leaving the organization of any opposition to the Democratic party in the hands of native sons. The appearance of this opposition was deferred, partly because of the negro vote. The influence of the negro in politics and the fear of a return of reconstruction days made many natives of Georgia hesitate long before organizing an "opposition party." Later years did see the emergence of a new Republican faction, but it will be seen that the influential members of that group did not make a bid for the negro vote. In the main, the Democratic party, understanding the characteristics of the negro race, recognizing their purchasability, was the party controlling the negro vote.

During this period—from 1880 to 1900—a number of cases were brought before the Supreme Court of Georgia on questions of suffrage rights and of holding of elections. Two important questions were answered in December of 1880. One McMahon filed a petition alleging that the conduct of elections in the City of Savannah was illegal and unconstitutional because of the method of registration of voters employed, and the imposition of a local poll-tax. The court held that municipal laws providing for registration of voters, the manner of doing so, of giving certificates of registration, of keeping registration lists, were not in conflict with constitutional provisions prescribing the general qualifications of voters, so long as these local laws did not impose different or severer qualifications than those set down in the constitution of the State. In addition, the court decided that no violation of the State laws or State constitution was done in imposing a local poll-tax upon voters in municipal elections only.[23]

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[20] Interviews with Mr. T. Larry Gantt, former editor of the Athens Banner, and Mr. T. W. Reed, long a resident of Northeast Georgia.

[21] *Ibid.*; Felton, *Memoirs of Georgia Politics*, pp. 656, 666; Arnett, *Populist Movement in Georgia*, 21, 22, 33, 35, 42, 47, 48, 153, 154, 183, 184, 220.

[22] Felton, *Memoirs of Georgia Politics*, 661, 663, 665, 666; Arnett, *Populist Movement in Georgia*, 47, 48, 153, 154, 183, 184.

By using "tissue ballots," members of either party were able to deposit several ballots when voting instead of only one. They were able also, by using "tissue ballots," to "stuff" the ballot boxes with several times the number of ordinary ballots since tissue paper was less bulky than that ordinarily used.

In 1883 the Georgia Supreme Court decided that the provision of law requiring voters to vote in their own districts was not in conflict with the Georgia constitutional provision granting eligibility to vote, in so far as residence qualified a person to vote, where a citizen had resided one year in the State and six months in the county in which he offered to vote.[24] The bearing of this case upon the exercise of suffrage rights by negroes is easily seen, for the negro's migratory habits often made it impossible for him to appear in a home district to vote. This decision came to the support of a legislative act of the same year, which repealed a section of the act allowing electors to vote in a county other than the county of their residence.[25]

But according to personal accounts of balloting in these years, the fraud, which had been tainting elections generally, still was rampant. One contemporary account "noticed that a list of colored men who had paid their, and also a list of colored men who had not paid, their taxes were [sic.] found in the hands of some men and boys who sat by the ballot-box. . . . When a voter came up to deposit his ballot, they would cry out: 'Hold to his vote before you deposit it, for I don't think his name is on our list.' . . . They had to leave the polls without voting.''[26]

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[23] *Georgia Supreme Court Reports*, Volume 66, p. 217, in the case of *McMahon et al. vs. the Mayor and Council of Savannah*, December, 1880.

[24] *Georgia Reports*, Volume 71, p. 206, in the case of *Dyson, ordinary, vs Pope*, November, 1883.

[25] *Acts of the General Assembly*, 1882-83, p. 46.

The Republican party was split into two factions in Georgia at this time. Late in March of 1884 the party had had a loosely knit sort of organization in the State. But then, through the efforts of Jonathan Norcross and General Longstreet, probably the best men of the party at this time, an effort was made to divorce the negro following and establish a ''white man's party.'' This faction of the party called a meeting for Atlanta and plans were laid for its organization. This left a faction of the party, embracing the negroes, under the leadership of Speer and Bryant, two political leaders of more radical tendencies. In referring to the new move to split the party a newspaper noted that ''It is the initial step made by the Republican party to shake off the negro, now that they can no longer use him. In other words, the republicans see that there is no chance of ever [regaining] a foothold in the Southern States so long as their success means African political supremacy over the Caucasian, for the negro is such a treacherous ally that he cannot be depended upon. . . . But so long as the negro is made the issue, the South will protest with an unbroken ballot. . . . When we cast our eye over a list of Federal office-holders in Georgia we see responsible positions filled by ignorant negroes and men who have purchased advancement by betraying their own people.''[27]

The Democrats in the State were not much less out of sympathy with this new faction than they were with Dr. William H. Felton and the Independent Democrats whom he had organized. The regular Democrats were violent in their speech against the latter group in the State. Editorial comment shows this contempt clearly. ''He knew that independent success meant a reinstatement of Republican rule in Georgia, and a victory of the negro over the white man. He consented to lead a movement with this disgraceful end in view, and justly merits the contempt and political ostracism in which he will ever be held.''[28]

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[26] Felton, *My Memoirs of Georgia Politics,* 319. This is given as a statement made by Robert Toombs Wright of Rome, Georgia, under the date of November 11, 1881.

[27] *Athens Banner-Watchman,* April 1, 1884.

The sympathies of the student of the situation in the South are aroused by a realization that never before in the history of the world had such a large mass of new electors been enfranchised by a single legislative act.[29] Such action, whether wise or not at the time, had not carried provisions of sufficient strength for the future handling of the situation. The future of the political rights of negroes was now exceedingly dark. The new legislature of Georgia had only two negro members in the House of Representatives and none in the Senate. One Representative had been elected in Liberty County and one in McIntosh County.[30] This further reduction of negro representation and the parallel reductions in other Southern States was not unexpected. Discussions of the question of the negro in politics still occupied considerable space in public speeches and writings. Some of the leading men of the nation expressed their views, and their portrayals of conditions and outlooks toward the future for the negro were varied indeed.

The ''desired result'' would be reached only, said Charles A. Gardiner, ''in proportion as the important ethnological facts and principles . . . are recognized in politics and embodied in law.''[31] At this time proposals of free states in Africa for the negroes were being heard. ''The free states of the Congo open to the American negro his first real chance to prove himself worthy of the liberties and civilization with which he has been endowed.''[32] ''An abnormal condition, born of war, carried him to an altitude unsuited to his attainments. He could not sustain himself there. He will now rise naturally and gradually. . . .''[33] ''The political and social privileges of the negroes in the future will depend on their development, which, in the main, will be in direct ratio to the efforts made for their improvement.''[34]

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[28] *Banner-Watchman,* April 1, 1884. This editorial discusses Dr. Felton and the leadership of the Independent Democratic movement.

[29] H. H. Chalmers, "Effects of Negro Suffrage," in *The North American Review,* March, 1881.

[30] *Banner-Watchman,* October 14, 1884.

[31] "The Future of the Negro," a symposium in *The North American Review,* July, 1884, pp. 78-99. From the article of Charles A. Gardiner.

[32] *Ibid.* Opinion of John T. Morgan.

[33] *Ibid.* Opinion of Frederick Douglas.

[34] *Ibid.* From the opinion of S. C. Armstrong.

The political situation in Georgia was neither pleasant nor promising for either the negro or the negro leaders, who were white men. The conduct of the latter was most deplorable. It became so disrupting an influence that the legislature had to resort to special legislative acts to try to curb it. On December 12, 1884, the General Assembly concurred in a resolution read, that, "Whereas, unscrupulous politicians are engaged in effort, through misrepresentations and false statements, to disturb the present harmonious relations existing between the white and colored races in the State of Georgia and in the South, and by such misrepresentation and false statements have excited among the colored people some vague and incorrect apprehensions as to the practical results of democratic rule upon their race: be it resolved . . . that this body hereby expresses its condemnation of all attempts to excite the fears of the colored people . . . and no legal rights now granted to them will in any way be abridged or destroyed."[35] Another act, passed in 1887, no doubt hoped to cut down some of the unethical practices of unprincipled negro leaders. This act provided a penalty for furnishing liquor on days of primary elections.[36] An earlier act had fixed a penalty for the same sort of practice at regular elections, but had not extended the provisions to primary elections.

Although the white race was at this time in full command of politics in the State, there still lived a fear that the negro might in some way recover the political power he had enjoyed during the period of reconstruction. Leading spokesmen of the South kept the undesirable elements before the citizens of these States. "The worst thing, in my opinion, that could happen is that the white people of the South should stand in opposing factions, with the vast mass of ignorant or purchaseable negro votes between. Consider such a status. If the negroes were skillfully led,—and leaders would not be lacking,—it would give them the balance of power, a thing not to be considered. If their vote was not compacted, it would invite the debauching bid of factions, and drift surely to that which was most corrupt and cunning. . . . The negro voter will not in this generation . . . become a steadfast partisan through conscience or conviction. . . .

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[35] *Acts of the General Assembly*, 1884-1885, Resolution number 3, pp. 660-661.
[36] *Acts of the General Assembly*, 1887, p. 42.

To dominate these States through the colored vote . . . is in my opinion the settled purpose of the Republican Party.''[37] The negro vote ''lacks political conviction and even that information on which conviction must be based.''[38]

The white people, in some instances, were still using methods which were, in substance, unfair, but which were clothed in legal garments. In one election in Albany, a municipal election, insufficient time was allowed for the registration of all voters. As the white people took precedence over the colored people, those of the colored people who came late could not register. Some whites were among them, but the negro voters who were thus excluded far outnumbered them. A case was made in the Supreme Court of Georgia in January, 1890. It was decided in this court that a sufficient time must be allowed for all who wished to register. The election was vitiated on the grounds that an insufficient time had been allowed, and a discrimination not sanctioned by law had been made.[39]

''In regions where the negroes were most numerous the temptation to employ corrupt practices was naturally much stronger . . . . During the seventies the colored vote had been largely eliminated or rendered ineffective in the black belt. . . . The bulk of the colored vote seems to have been brought by various means to the support of the straight Democracy.''[40]

A Georgia law passed in 1890, to protect primary elections and conventions, was another great, self-accorded boon to the Democratic party. This act provided that the primary of a party was subject only to the rules and regulations of that party. The act also provided the whole machinery of primary elections, officials, challenges, exhibition of ballot-boxes, and the several other provisions made for general elections.[41] This was one of the most significant pieces of legislation, regarding its effect in debarring the negro from the primary of the dominant party. The act itself did not exclude the negro, but it did invite exclusion on the part of the party by declaring that participants in a primary election were subject only to the rules of the party. The dominant party, as well as other parties, was enabled by this provision to specify who could, and who could not vote at its primary. The negro vote was not invited into the Democratic party, except at times when his vote was needed. Those times were few. The negro, or any other, vote in any other party was, by the very nature of the situation, rendered nugatory. This method devised by a Democratic Assembly was later to be severely attacked.

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[37] Henry W. Grady, in an address delivered at Dallas, Texas, State Fair, October 26, 1887.

[38] Thomas B. Reed, *Modern Eloquence,* II (Philadelphia, 1900), p. 543, *The Race Problem,* speech of Henry W. Grady, at Boston, Massachusetts, 1889, an address before the Boston Merchants' Association.

[39] *Georgia Reports,* Volume 84, pp. 630-631. This decision was made on January 25, 1890.

[40] Arnett, *The Populist Movement in Georgia,* p. 42-43.

[41] *Acts of the General Assembly,* 1890-1891, p. 210.

Three cases which came before the Georgia Supreme Court in 1892 and 1893 are of interest. It had been the practice of cities in the State to provide special registrations for local affairs; such as, water-works bond elections, regular municipal elections, and other special elections. In these cases, all of which yielded nearly identical decisions, the court held that special local registration acts were not in conflict with the general election law, but that they were not, by it, required.[42] The plaintiffs in these cases were not negro citizens, but the connection with the negro's exercise of the suffrage in municipal affairs is easily seen. A similar decision was rendered in April, 1895.[43]

In 1894 the General Assembly devised a "General Registration Law" to become effective on the first Monday in January, 1895. This law provided that no person could vote in the State for United States, State or County officers, who did not register. The act required an oath making the voter swear to age, residence and payment of taxes as set down in former acts, and added that separate lists be kept in voter's books for white registered voters and colored registered voters, "for the purpose of more easily identifying voters."[44] On its face the law was valid and not in conflict with any Federal or State laws or either constitution, but the provision for the noting of the race of the registered voters made possible a great deal of the malicious administration which did follow. Under this act it was also provided that the Judge of the Superior Court of each county should appoint three upright and intelligent citizens of the county as "county registrars." These registrars were appointed for two years, but the judge was empowered to remove and reappoint county registrars "with or without cause."[45]

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[42] *Georgia Reports,* Volume 89, p. 476, in the case of *Kaigler vs. Roberts, Ordinary, et al*; Volume 90, p. 817, in the case of *Davis et al vs. the City Council of Dawson*; Volume 91, p. 139, in the case of *Howell vs. the Mayor and Council of Athens.*

[43] *Ibid.,* Volume 96, 213, in the case of *Heilbron et al. vs. the Mayor and Council of Cuthbert.*

[44] *Acts of the General Assembly,* 1894, pp. 115-122.

The registration lists were to be kept open to the public for a specified period for inspection by the public and challenge by any qualified voter.[46]

On November 2, 1899, in the case of *Cole et al, vs. McLendon, Ordinary,* the first test upon the new general election law was made. The counsel for Cole, the plaintiff, alleged that registration lists which had been exhibited carried names irregularly entered upon them; that the persons whose names appeared so irregularly registered were allowed to vote; that the examination of folded ballots, offered by some voters, was a form of intimidation and was illegal, and that, for these reasons, the election should be declared void. The court refused to vitiate the election, holding that, although irregular entries did appear on the registration lists, those persons were qualified voters and entitled to vote at the election, and that the fact that persons were intimidated at the election, would not form a valid contest of the election, unless the names of persons intimidated were listed, and unless it were shown that these persons would have voted on the losing side in the election, and that the number of persons so listed could be proved to have been numerous enough to have affected the results of the election. The election was declared valid.[47]

In 1903 the Union League Club conducted an investigation in eleven Southern States on the suffrage conditions. It made a report and recommended that Congress reduce the representation of six of these States in the national legislative body. Georgia was not among them, for the committee reported that it had failed to find restrictive or unfair clauses in its Constitution. The reduction of representation of other States was recommended because of alleged infringements of the Fourteenth and Fifteenth Amendments.[48]

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[45] *Acts of the General Assembly,* 1894, p. 118.

[46] *Ibid.,* p. 120.

[47] *Georgia Reports,* Volume 109, pp. 183-184.

But the negro was discriminated against illegally in Georgia. This is evidenced by the facts in the case, in the Georgia Supreme Court, of *Howell et al, vs. Pate et al.* An election was held in Warrenton on December 9, 1903. Howell and his co-plaintiffs claimed that forty-five colored qualified voters had been excluded from voting at this election on account of their color, because of the municipal charter which limited the right to vote for officers of city government to white persons. Pate and the co-defendants had been elected to municipal offices by twenty or twenty-two votes majority. The plaintiffs prayed for a vitiation of the election on the grounds that the provisions of the municipal charter were rendered illegal and unconstitutional by the constitution and laws of the State, and that under these illegal provisions, qualified voters had been excluded on account of race. The decision in the case was delivered on February 15, 1904. It was, that there had been an exclusion of qualified voters on account of race, and that there had been a sufficient number thus excluded to have altered the results of the election, and that, accordingly, the election was declared void. Those parts of the municipal charter which limited the right to vote for city officers to white persons were declared unconstitutional and void.[49] The decision was fair, and was one of few to accord the negro voter a fair treatment, but, even in this case, all the defendants and all the plaintiffs were white persons. It was not a victory then for the colored person, primarily.

The question of the suffrage of negroes in Georgia was an important one by reason of the vast number of negroes who resided in the State. At this time the negroes in Georgia constituted 11.7 per cent of the total negro population of the United States—a higher percentage of the whole negro population of the United States than that in any other State in the Union. The number of negroes in Georgia was nearly equal to the number of whites.

In 1904, New York negroes constituted only 1.1 per cent of the whole number in the United States, Pennsylvania only 1.8 per cent, Ohio only 1.1 per cent, and Illinois only 1 per cent.[50] It is natural for the observer to see what affects him most deeply. Naturally, then, Georgia was greatly concerned in, and New York and the other states, in which the negro population was a negligible fraction of the whole citizenry, were able to ignore, the question of negro suffrage. It is difficult to try to evaluate the worth of Georgia's attempts at regulating the suffrage of her negro citizens until the whole portrait is drawn. Georgia was, at this time, on the verge of her most significant and important development of suffrage regulation. The judgment must be reserved.

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[48] *Suffrage at the South*, the Report of the Committee on Political Reform of the Union League Club of the City of New York, Cephas Brainerd, Chairman. This report, published by the Club, was submitted on April 9, 1903.

[49] *Georgia Reports*, Volume 119, p. 537.

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[50] *Twelfth Census of the United States,* Census Bulletin number 8, *Negro Population in the United States,* 1904, p. 19.

CHAPTER VI

REGISTRATION AND ELECTION MACHINERY—1907 TO 1914—WITH SOME ANTECEDENTS

It was not until the summer of 1907 that the State of Georgia sought the passage of laws, similar to those in operation in other Southern States, providing an intricate prescription of qualifications for electors, "registration of voters, and for other purposes."[1] In this act, which was to amend the constitution of the State by "repealing Section One of Article Two" and "inserting in lieu thereof a new section consisting of nine paragraphs,"[2] Georgia was to set up restrictions upon the suffrage that virtually disfranchised the colored man. There seems no doubt that the purpose of this amendment was to insure the maintenance of the supremacy of the white race in the State.

Mississippi had, in 1890, made changes in the suffrage by so amending her constitution that the right to vote depended upon the payment of a poll tax, and the ability to read any section of the constitution, or to understand it when read, or to give a reasonable interpretation of it. "The election officials had absolute discretionary powers and could ply the applicant with questions that would divide the Supreme Court. . . . No secret was made of the fact that the sole purpose of this section and of similar sections in other Southern States was to keep the negroes from voting."[3]

A question arises concerning the reasons why the Georgia legislature waited until 1907 and 1908 to pass her "Disfranchisement Act." Mississippi's law had been drafted in 1890—seventeen years earlier. Why had Georgia waited so long? Primarily, the negro problem had been much graver in Mississippi because of the fact that the greater percentage of negroes in that State. The same was true of South Carolina. Since the enumeration of 1840, no census has given Mississippi a proportion of negroes less than fifty per cent of the total population. From 1860 to the present the average percentage of negroes in that state has been nearer sixty per cent. South Carolina has had even greater numbers of negroes. Since 1820 that State had a number of negroes in the population large enough to constitute more than fifty per cent of the population. Since 1850 its average has been very near to sixty per cent negro. Georgia's negro population, while larger in numbers than either of these States, has remained proportionately much smaller. Since 1840, Georgia's proportion of negroes has been, on an average, about forty-five per cent of the total population. It is interesting to note that all three of these States have experienced a steady decline in negro population since 1900.

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[1] *Acts of the General Assembly*, 1907, pp. 47-50. This was approved August 21, 1907.

[2] *Ibid.*, p. 47.

[3] James Weldon Johnson, "A Negro Looks at Politics," in *The American Mercury*, XVIII, September, 1929, pp. 88-94.

Georgia's negro problem then has made fewer peremptory demands for attention, due to the smaller proportion of negro population. Why, then, were the disfranchisement measures passed?

It has been stated that Georgia disfranchised the negro to prevent his voting on the ratification of the State prohibition amendment which was passed by the legislature at the extraordinary session of 1915. This claim does not find substantiation in the acts of the General Assembly, for the disfranchisement act was passed seven years before, in August, 1908. Obviously, there was no connection between the passage of the prohibition law in 1915 and the registration amendment (or Disfranchisement Act) adopted in 1908. In the same month of 1908 the legislature also passed a law prohibiting the manufacture, buying and selling of spirituous liquors. This was a law, and not a proposed amendment, as was the disfranchisement measure. The voters had no voice in its passage, except through the legislators they had already chosen. The prohibition measure of 1915 was also passed as law, and not as an act to amend the Code or the Constitution of the State.. Hence, neither of the prohibition laws was submitted to popular ratification. The claim, therefore, that Georgia disfranchised the colored man to prevent his voting on State prohibition laws is unfounded.

The Georgia amendment of 1908, which provided for registration of voters in the State, was passed for the purpose of excluding ignorant voters. There is no doubt, however, as will appear later, that the Georgia people were interested more in eliminating the ignorant negro vote than in eliminating votes because of ignorance. Had the race issue not been present, there would have been no disfranchisement measures. The negro vote was to be eliminated; the majority of Georgia people demanded it.

Alabama had held a constitutional convention and had developed a revised constitution which included provisions analagous to those of Mississippi, and which went into effect in 1901. According to a quoted statement of John B. Knox, president of this Alabama Constitutional Convention, the purpose was, "within the limits imposed by the Federal Constitution . . . [to] establish white supremacy in this State."[4] Other states had followed the example of Mississippi before Georgia passed her amendment in 1907. The provisions of the constitutions of these states had caused great comment, and several important questions concerning them had been taken to the Supreme Court. Prior to these cases brought from the Southern States two cases brought from a lower court of Maryland had received much attention.[5]

In the case *Ex parte Siebold* it was brought out that several judges of elections in Baltimore were convicted in a lower court for interfering in an election. These judges claimed that the interference was legal under the statutes of the United States. The question involved was the right of the United States to interfere, through statute or agent, with elections in the states. The court upheld the right of the United States to alter state regulations controlling elections for United States officers. This decision was approved in the case *Ex parte Clarke*.[6]

An indictment charging that the defendants in the case *Ex parte Yarbrough* had conspired to intimidate a negro citizen in the exercise of his right to vote was held to be an offense under the statutes of the United States. It was further held, that the negro's right to vote is based upon the Constitution of the United States and not upon State law, and that Congress has the constitutional power to pass laws enforcing the "free, pure and safe exercise of this right."[7] This decision was supported by subsequent holdings in the Supreme Court.[8]

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[4] Wilford H. Smith, "Is the Negro Disfranchised?" in *The Outlook*, CXXIX, April, 1905, pp. 1047-1049.

[5] *United States Reports*, Volume 100, p. 371. The case *Ex parte Siebold*, (Otto, Volume X); and *Ibid.*, Volume 110, p. 651, in the case *Ex parte Yarbrough*. The decision in the case *Ex parte Siebold* was rendered in the October term of the Supreme Court in 1879; *Ex parte Yarbrough* was decided October, 1883.

[6] *United States Reports*, Volume 100, p. 399.

The suggestion has been made that the only lasting solution of the suffrage problem will come through constitutional amendments making ability to read and write a requirement for voting, and also making literacy the basis for the apportionment of members of the House of Representatives and, consequently, of votes in the Electoral College. One author commented by saying that "other methods are but patches and poultices applied to a sore on the body politic."[9]

Four appeals which were filed in the Supreme Court of the United States, one each in the years 1895, 1897, 1902 and 1903, serve as logical antecedents to the Georgia Constitutional amendments affecting the suffrage. A consideration of the appeals and decisions in these cases leads toward a clearer understanding of the situation later found in this state. The first appeal was in the case of *Mills vs. Green*.[10] Mills appealed on the grounds that constitutional provisions in South Carolina were illegal and in contradiction to the provisions of amendments to the Constitution of the United States, and that such state suffrage laws as were then existing in the State of South Carolina operated in abrogation of the right of suffrage. Mills had been refused the right to vote, and the lower court in South Carolina had refused an appeal from him. The opinion of the Supreme Court in this case was that no relief could be granted to a person where the purpose of that person's appeal was to secure the right to vote and the time for voting had passed. The court further held that the withholding from Mills of the right to vote was not done under illegal provisions in the laws or constitution of South Carolina.

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[7] *Ibid.*, Volume 110, p. 651.

[8] The decision has been approved in the case of *Guinn vs. the United States*, *United States Reports*, Volume 228, p. 107; in the case of the *United States vs. Mosley*, *Ibid.*, Volume 238, p. 386; and in the case of *Swafford vs. Templeton*, *Ibid.*, Volume 185, p. 492.

[9] Walter C. Hamm, "The Three Phases of Negro Suffrage," in *The North American Review*, Volume 168, pp. 284 ff., March, 1899.

[10] *United States Reports*, Volume 159, pp. 651-658.

The next case of importance came as an appeal in the Supreme Court against the Mississippi Code of Laws of 1892. The code included provisions requiring the person offering to vote to be able to read parts of the Mississippi Constitution, or to understand them when read by another person. Henry Williams entered the appeal on the ground that the provisions of the Code of 1892 denied equal protection of the law to colored persons.[11] It was claimed that the code made evil administration under the law possible. Williams' petition was, in effect, a demand for a quashing of certain sections of the Mississippi Code. The court held that it was not possible to remove a law or fraction of a law because it was shown that evils of administration were possible under it,[12] unless it was also shown by whom and what means the evils were perpetrated.[13] It was held, further, that the part of the Constitution of Mississippi prescribing educational tests for electors was not a denial of the equal protection of the law.[14] These holdings were contained in the decision reached on April 25, 1898.

A very unusual decision was reached in the case of *Giles vs. Harris*.[15] Giles, the plaintiff in this case, asked for two motions; first, that the Alabama constitution be declared void, and, second, that he and several thousand negroes of Montgomery County, Alabama, be relieved of the unjust provisions and allowed to register and vote. The decision of the court was to the effect that Giles and the other negroes could not register because they requested registration under an instrument which they wished voided.[16] Other cases in the Supreme Court of the United States have approved this decision.[17]

In 1904, in the Supreme Court case of *Pope vs. Williams,* several important points were adjusted. The case had arisen on the contention that the State of Maryland had, by her laws, abridged the right of colored people to vote on account of their race. The court held that, while the privilege to vote may not be abridged by a State on account of race, color and previous condition of servitude, the privilege is not given by the Federal Constitution or by any of its amendments, nor is it a privilege springing from citizenship of the United States.[18] The other significant holding in the case was that the elector must be entitled to vote under the state stututes.[19]

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[11] *Ibid.*, Volume 170, pp. 213-225, in the case of *Henry Williams vs. the State of Mississippi,* in the October term, 1897.

[12] *Ibid.*, Volume 177, p. 447. This holding was approved in the case of *Carter vs. Texas,* here referred to.

[13] *Ibid.*, Volume 170, p. 213. Opinion delivered by Mr. Justice McKenna.

[14] *Ibid.*

[15] *Ibid.*, Volume 189, pp. 475-504, in the October term of the Court, 1902.

[16] *Ibid.*, pp. 425, 476.

[17] *Notes on the United States Supreme Court Reports*, complete revised edition, Charles L. Thompson (San Francisco, 1918), XVIII, 1345. This decision has been approved in: *Rogers vs. the State of Alabama, United States Reports,* 192, p. 229; and in: *Giles vs. Teasley, Ibid.,* 193, p. 162-166.

The legislators of Georgia in 1907 had a number of precedents to follow in the formulation of the acts to amend the State constitution. The measures to regulate registration of voters in other states were to serve as guides to similar efforts in Georgia. The acts of 1907 included an act proposing a constitutional amendment which inserted a new section prescribing qualification for electors and provided for the registration of voters in Georgia.[20] In 1908 an almost identical bill was passed. A detailed consideration of the proposed amendment of 1908, showing the few differences between it and the proposed amendment of 1907, will serve to give an accurate view of both. Actually, the proposed amendment of 1907 never became operative on account of formal defects, and was replaced by that of the following year before it had been applied.

The second of these acts, and, undoubtedly, the one of greatest effect upon the rights of negroes, was approved by Governor Hoke Smith on the first day of August, 1908.[21] The purpose of this act was to prescribe the qualifications for electors and to provide for the registration of voters.[22] Governor Smith, in his message to the legislature on June 24 of this year, referred to this legislation as the ''Disfranchisement Act.''[23] The governor commended the legislature on the passage of this act, saying that that session of the legislature would be ''made memorable by the passage of three most important pieces of legislation,'' the second of which he listed as the ''proposed amendment to the

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[18] Wallace, *Reports*, XXI, p. 162, in the case of *Minor vs. Hoppersett.*

[19] *United States Reports*, Volume 193, p. 621, in the case of *Pope vs. Williams*; Thompson, *Notes on the United States Supreme Court Reports*, XIX, p. 99.

[20] *Acts of the General Assembly*, 1907, pp. 47-50. Approved August 21, 1907.

[21] *Acts of 1908*, pp. 27-31. "An act to amend the Constitution of Georgia by repealing Section 1 of Article 2 of the Constitution of this State and inserting in lieu thereof a new Section. . . ."

[22] *Ibid.*, p. 27.

[23] *Journal of the House of Representatives of Georgia*, 1908, p. 11.

Constitution of the State, fixing new standards for the right to register and vote in Georgia.''[24]

Governor Smith also stated that ''the Democratic primary is with us the equivalent to an election. We wisely settle our differences in it and accept it as absolutely final.''[25] He urged fixing a time for the primary. In accordance with this insistence on the part of the governor, the legislature passed a measure ''to provide additional regulations for primary elections.''[26]

The third measure in the series of ''disfranchisement'' provisions of 1908 was ''an act to provide additional regulations for the registration of voters.'' It was approved on the same day with the act regulating primary elections.[27]

The act of August 1, which proposed amendments to the Constitution of Georgia providing qualifications of electors and registration of voters, was ratified in the October election of 1908. The amendment contained many new provisions, while some were held as precedents from earlier State statutes. The most interesting and remarkable, as well as the most potent, of these provisions was found in Paragraph 4 (with its five sub-divisions), in Paragraph 5 and in Paragraph 6 of the new amendment.[28] The provisions having the greatest effect on the suffrage rights of negroes were the five sub-divisions under Paragraph 4.

The first of these sub-divisions provided eligibility as electors to persons, not disqualified under other requirements of the amendment, who had honorably served in wars of the United States or in the forces of the Confederate States or of the State of Georgia in the War between the States. Sub-division 2 extended this eligibility to all persons lawfully descended from persons who had such war records. It was provided that the right of persons to register under Sub-divisions 1 and 2 should continue only until January 1, 1915, but that any person once registered in these ways should thereafter be permitted to vote, provided that person met the residence requirements and had paid taxes required of him.[29] The negro could not qualify under these first two sub-divisions.

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[24] *Ibid.*, p. 10.

[25] *Journal of the House of Representatives of Georgia,* 1908, p. 17.

[26] *Acts of 1908,* pp. 55-57. Approved August 15, 1908.

[27] *Ibid.*, p. 58-62.

[28] *Ibid.*, pp. 28-30; *The Georgia Code,* 1926, T. J. Michie, ed., (Charlottesville, Virginia, 1926), p. 19; McElreath, *Constitution of Georgia,* 501-503.

Sub-division 3 gave the rights of electors to "all persons who are of good character and understand the duties and obligations of citizenship under a republican form of government." The negro found it difficult to register under the provisions of this sub-division because he had to convince a white man, who was a registrar, that he did understand the "duties and obligations of citizenship." His examiner was, in practically all cases, an appointee of the Democratic organization.

The illiteracy of the negro as a group in Georgia debarred him from qualifying under Sub-division 4. This clause qualified as electors all persons who could read and write in English any paragraph of the State and Federal Constitutions and all persons who solely because of physical disability were unable to comply with the reading or writing requirements, but who could understand and give a reasonable interpretation of any paragraph of the State and Federal Constitutions. The negro's ability to understand and give a reasonable interpretation of parts of the Constitutions to the satisfaction of the registrars of voters was doubtful.

Sub-division 5 required the ownership of at least forty acres of land in the State or ownership of property situated in the State and assessed for taxation at the value of five hundred dollars.[30]

Interviews with those in public life at this time have given the information that most of the negroes who have registered in Georgia have become eligible to register, and to vote under the property qualification of the 1908 amendment. Those interviewed have agreed that it was very difficult for any colored man in Georgia to register because he had good character. They recognized, too, that there was little opportunity for the negroes to register under the requirement of reading and writing, or understanding and interpreting the State and Federal Constitutions. The reasons were that the judgment of the character of the negro, and his ability to read, write, understand or interpret, were left solely with the local registrars of voters. Each county was provided with a board of registrars, who were appointed by the judge of the superior court. The judge had been elected in the Democratic primary, so there was little fear that non-partisan registrars would be appointed.

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[29] *Acts of 1908*, pp. 28, 29.
[30] *Ibid.*

The provisions and restrictions embodied in these five sub-divisions have been heatedly attacked. The attacks center around the contention that the whole amendment was devised to disfranchise the colored man. That such was the purpose of the amendment is not generally admitted by the leaders of the Democratic party, but this purpose is usually given as the real source of the amendment of 1908 by many representive men in Georgia.[31] Many factors should be considered before trying to make a judgment of the justifiability or the purpose of these and other laws which have resulted in practical exclusion of the negro vote in Georgia.

The amendment of 1908 granted the right to take an appeal from the decision of registrars upon the denial of the privilege of registering under the sub-divisions of Paragraph 4.

The amendment of 1908 stated that "no person shall be allowed to participate in a primary of any political party or a convention of any political party in this state who is not a qualified voter." It reserved to the legislature the power to change or amend the registration laws from time to time.[32] Other parts of the amendment were given to provisions for the ratification of the amendment.[33]

A most significant feature of the 1908 Georgia amendment was that the voter must have paid all taxes required of him since the adoption of the Georgia Constitution in 1877.[34] The negro in Georgia was and is poor. He had to use every available dollar to eke out a scant living. The requirement of paying all taxes since 1877 was in a great degree responsible for the removal of numbers of votes of the negroes. The payment of taxes in arrears introduced an insoluble problem for them.

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[31] This conviction is widely held and freely expressed by citizens in Georgia, as was determined in interviews with men of both races and many stations during the course of research on this study. For example, county officers of Clarke County, Georgia, expressed without hesitation the idea which they considered back of the registration laws. Several of these county officers admitted that while serving on the county registration boards, the board members refused the right to register to every negro whom they could in any way exclude.

[32] *Acts of 1908*, pp. 29, 30.

[33] *Ibid.*, pp. 30, 31, Sections 2, 3, 4, 5.

[34] *Ibid.*, p. 28, Paragraph 3.

The further provisions of the amendment of 1908 were extracted from preceding acts of the General Assembly. The great change came in Paragraph 4, under the five sub-divisions explained. The part of Paragraph 4 which introduced the sub-divisions of it stated that "Every male citizen of this state shall be entitled to register as an elector and to vote in all elections in [Georgia] who [in addition to meeting several other specified requirements] . . . comes within either of the classes provided for in the five following sub-divisions of this paragraph.[35] The five classes were then detailed. An allegation has been made that for the white man the word "either" in this paragraph means "any one," while the colored man has to satisfy "each one" of the five qualifications to be allowed to vote. Various accounts agree that such registration laws as this in Georgia, and those in other states, lead to the probability of unfair administration by county officers who, by the amendments, were given the power of deciding who did and who did not satisfy the requirements of the law.

To summarize, the amendment of 1908 provided that all persons free from crime and in their right mind, who had paid all taxes required since the Constitution of 1877, and had resided in the State one year and in the county six months, could qualify to vote in any one of five ways; viz., if they had honorably served in a war or wars of the United States or in the armies of the Confederate States; if they were legally descended from persons who had served in such wars; if they were of good character and understood the duties and obligations of citizenship; if they could read and write in the English language any paragraph of the State and Federal Constitutions; and, if they owned in their own right property assessed for taxation at five hundred dollars. Persons who could not meet one of the five qualifications were debarred from voting.

The second of the three significant laws passed in 1908 was that establishing "Regulations for Primary Elections."[36] This act provided that the primary election of any party in the State should not be held earlier than sixty days before the date of the general State election in October.[37] It further enacted that no elector could vote in any such primary election in a militia district other than the one in which he resided.[38] Oaths for election managers, provisions for the use of official ballots and returns of the election were given in the act.[39]

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[35] *Acts of 1908*, p. 30.
[36] *Acts of 1908*, pp. 55-57.
[37] *Ibid.*, 55, 56.

An act for the "Registration of Voters" was also passed in 1908. It provided regulations supplementary to the constitutional amendment for qualification of electors passed in this year.[40]

In none of these laws of the State was the negro mentioned by name. But the negro was by these laws relegated to political nonenity by concerted effort on the part of the Georgia legislators. A periodical claimed that Georgia had closed "the door of political hope in the faces of one million of its citizens upon whom [it] largely depends for its labor, and, therefore, its prosperity and progress. In a republic based on political equality, the negroes of Georgia are henceforth to be ruled without a voice in their government. . . . If certain communities were groaning under black misrule, there would perhaps be some excuse for this new law. As a matter of fact the white man has had everything his own way in Georgia."[41] Another periodical held that "The legislature of Georgia, in accepting this proposal to subject the State to the domination of the registrars of election, has shown no understanding . . . [of] the movement in the Southern States to purify its suffrage. . . . It is not the negro but the white man of Georgia that has something to fear. . . ."[42]

The payment of a poll tax was held by some to have partially solved the suffrage problem in Georgia: "In the Constitution of 1877 it was provided that one must pay his poll tax in order to vote, and not only for the current year, but from 1877 on. . . . With no outside assistance, this practically disfranchised the negroes. . . . In the black counties tax collectors aided this natural disposition of the negroes by neglecting to collect the taxes due, the State being perfectly willing to lose the revenue if at that sacrifice the negro vote could be eliminated."[43]

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[38] *Ibid.*, 56.

[39] *Ibid.*, 56, 57.

[40] *Ibid.*, 58, 62.

[41] "The Georgia Disfranchisement," an editorial, in *The Nation*, Volume 85, pp. 113, 114, August 8, 1907.

[42] Editorial comment, in *The Outlook*, Volume 87, pp. 57-58, September 14, 1907.

[43] A. F. McKelway, "The Suffrage of Georgia," editorial comment in *The Outlook*, Volume 87, pp. 63-66.

A leading lawyer wrote that "The danger lies, not in the language of the amendments, but in the manner in which they shall be administered."[44] "Though the law itself be fair on its face and impartial in appearance, yet if applied and administered by public authority with an evil eye and an unequal hand, so as practically to make unjust and illegal discrimination between persons in similar circumstances, material to their rights, the denial of equal justice is still within the prohibition of the Constitution."[45]

A petition, alleging that a number of colored voters were intimidated at an election and prevented from voting, was filed in the Georgia Supreme Court in 1908. The petition for redress, and vitiation of the election, due to the prevalence of fraud, in this case was not allowed by the court on the ground that a list of persons prevented from voting was not presented, nor was it shown that their votes would have altered the result of the election.[46] In March, 1910, it was decided in this court that cities must not go beyond the constitutional provisions for suffrage in prescribing registration regulations in local elections.[47]

In 1913 the Georgia legislature passed an act "to create a permanent qualification book for qualified voters of this State. . . ." This book was to be kept in each county by the tax collector of that county, and all persons desiring to qualify as electors were required to qualify as under the Constitution amended to 1908. Such persons were required to sign the permanent registration book and also subject themselves to an examination by the Board of Registrars. This board was required to examine the qualifications of electors each two years.[48]

Taxes were required to be paid, and registration made at least six months prior to the election. Electors who once signed the Permanent Qualification Book were not again required to register except as required by the Board of Registrars.[49] The effect of this law was to further discourage the negro from voting. He disliked an appearance before an examining board. Numbers of them preferred to relinquish their suffrage rights rather than to be coldly met by a Board of Registrars.

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[44] Walter A. Harris, "Legal Aspects of the Recent Amendments to the Constitution of Georgia Regulating the Elective Franchise," *Report of the Twenty-sixth Session of the Georgia Bar Association* (Warm Springs, 1909), p. 48.

[45] *United States Report*, Volume 170, p. 213, Mr. Justice Matthews speaking for the court in the case of *Williams vs. Mississippi*.

[46] *Georgia Reports*, Volume 131, p. 320, in the case of *Lowrey vs. Cheatham*, decided on August 17, 1908.

[47] *Ibid.*, Volume 134, pp. 292, 293, in the cases: *Tolbert vs. Long, Ordinary; O'Kelly vs. Long, Ordinary*.

[48] *Acts of 1913*, pp. 115-117.

[49] *Ibid.*, 116-117.

Now, the regulation of the suffrage of both negroes and whites was in the hands of the State, and, further, in the hands of the ruling element in the passage of the laws in the period between the years 1907 and 1914—the Democratic party. The negro's political outlook was not encouraging.

CHAPTER VII

RECENT DEVELOPMENTS; PRESENT SITUATION AND POSSIBILITIES

The laws setting up the qualifications for electors and registration of voters and for the regulation of primary elections, which were approved in 1908, and the law of 1913, providing permanent registration books for the counties, together with regulating laws passed in 1894, form the significant parts of the election laws which operate in Georgia today. They themselves, together with the power of public opinion in Georgia, are reasons why the negro does not vote. Probably the most powerful deterrent in 1908 was the law, passed in that year, providing among other things, five classes of persons to whom the rights of electors would be given, if they met the other requirements of that act. At that time the negro had little chance of registering in the State under those provisions. Very few negroes have voted since that year. Many no longer attempted to vote after they saw what odds they had to surmount. The generations of negroes living today do not seem to care to vote; the vast majority of them know very little of either the provisions of the laws or the meaning of politics.[1] This situation is easily understood. Neither the laws of Georgia, nor its constitutions, nor the opinions of the majority of the people of the State, have ever favored suffrage for the negroes. With such powerful deterrents imposed upon him, it is little wonder that he does not choose to vote.

At the present day the almost absolute exclusion of the negro voice in State and Federal elections is due largely to opinion as expressed in the primary election laws of the State. The act of 1908 allowed no person to participate in any primary election of any party unless he was a qualified voter. But the discriminating fact in the primary law was that it provided that the political party could make its own rules and regulations.

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[1] This is the general opinion gathered from numerous interviews with white and negro leaders in Clarke County. It seems reliable.

They were permitted to decide who could vote in such primary elections. Since the election was a primary election and not a general State election the political party could and did provide that it was a white man's party. The negro was effectually barred by these provisions from having any voice in selection of officers, either of the state, or of the nation. The effect was that a primary election by a political party, the Democratic party, was, in effect substituted for the general State election, for in reality, Georgia had only one party of any influence in the State elections. Other parties, although the right is theirs, practically never offer candidates, so a one party system has been built up. Public officers were virtually and actually chosen in the primary election of the Democratic party, the general election being merely a perfunctory affair which gave the impression of regularity. The primary election was decisive

Those of the negroes who can qualify are allowed to vote in the general State elections, but in such elections their votes are, virtually, only seconds to the nominations of the candidates of the Democratic party. The negroes who can qualify vote in Georgia for presidential electors, but their votes are rendered practically nugatory, for the electoral vote of the state invariably is given to the nominees of the national Democratic party. A large number of negroes vote, as a rule, in presidential elections, for they feel their votes are of more influence in national affairs than in state affairs. They generally consider themselves followers of the Republican party, and, in practically all cases, they vote the ticket of that party.

The question of negro political rights has forced upon the State of Georgia, in many phases of her political life, a status of stagnation. The state is prevented from enjoying a wholesome, full and free exercise of political thought due to the fact that such is inexorably limited by the presence of the negro question. Georgia has, for the time at least, solved the question so far as politics is concerned. The great, uneducated, unintelligent mass of negroes has been effectually excluded by one means or another. A number of competent negroes, however, who could rightly use the voting privilege, have been excluded indiscriminately with the rest. The negro does not enjoy the equal and impartial administration of the laws of Georgia. The power of the local registrars of voters is practically without limit in deciding who shall vote. It is true that the registration laws provide that anyone may appeal the decision of a registrar, but the cases in which negroes have appealed are very few. The registrars regularly discourage the negroes when they attempt to vote. Many who could qualify do not offer to vote because of the discouragements they receive from those who administer the registration and election laws.

The white people had reasons in days past to exclude the negro vote. Any recollection of the conditions existent in Georgia during the period of the reconstruction serves to explain why the people of the state adopted the measures they did with regard to the suffrage. The blame for the dilemma of Georgia on suffrage matters should be placed upon the Republican organization in the period subsequent to the Civil War. The indiscriminate grant of suffrage to any great group of people, without regard to the intellectual status of that group, will ever be considered impolitic. Had the negro been admitted to suffrage rights in ratio to his cultural advancement, the present situation, with its unfair discriminations, which allows suffrage to negroes in a ratio lower than that to which their advancement entitles them, could have been avoided. But the white people, as a people, fear the return of conditions which existed under the reconstruction régime. Everyone who fears the return of these conditions favors the exclusion of colored voters.

The judgment has been made often that the only solution of the suffrage problem of the South which can be acceptable to intelligent people, and the only basis upon which to justly predicate the suffrage right, is the imposition of just and impartial educational, or educational and property, qualifications for electors. The ideal status would include a complete disregard of race and color in political rights and the grant of these rights to intelligent persons.

A full discussion of the development of suffrage rights in Georgia should include some of the more recent legislative acts of the General Assembly which bear upon the rights of electors and conduct of elections in this State. To do this, it will be sufficient to outline those legislative acts which are now found in the Code of Georgia. Other significant acts of former years have been treated in parts of this and the foregoing chapters.

An act of 1917 provided for the holding of special primary elections of political parties. The following regulation is included: "Special primary elections to fill vacancies in any of the offices referred to in this act shall be held on such date as may be fixed by the State Executive Committee of such party; but the same rules prescribed in this Act for determining the result in general primary elections for the offices named shall govern in determining the result of any special primary election; . . ."[2] The provisions of this section of the act of 1917 make plain the restriction indirectly placed upon the negroes. By the party rules and regulations governing primary elections, the Democratic party excludes the negro from voting in such an election. This act states that the rules governing the special primary elections shall be the same as those set forth by the party for general primary elections. The negro who is excluded in the one is excluded in the other.

Were the provisions of this, and the antecedent primary law of Georgia, taken and applied in an appeal in a court of jurisdiction, and the appeal made to show that the negro was excluded by provisions which constituted a discrimination on account of race or color within the meaning of the Fifteenth Amendment to the Constitution of the United States, such a court should declare the unconstitutionality of the Georgia Act. In 1927 the Texas primary law was declared unconstituional in the Supreme Court of the United States for the reason that the law prohibited negroes from voting in primaries of the Democratic party. The provisions of the Georgia primary law are similar to those which operated in Texas prior to 1927. The primary laws in all the Southern States are nearly identical in their provisions.

An act, also passed in 1917, stated that "all laws now of force in this state in reference to the qualification of voters and their registration shall apply to said [primary] elections and that no person shall be entitled to vote at any such primary election who is not a duly qualified and registered voter according to the laws of this state and who is not also in accordance with the rules and regulations of the party holding the same.'"[3] These provisions had the effect of extending the exclusion of the negro vote to this type of election, since he could not qualify to vote in Democratic primaries.

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[2] *Acts of 1917*, pp. 183, 188.

In 1920 the center of the negro population of the United States was in Dade County, in northwest Georgia.[4] The importance of this fact is obvious. It means that Georgia has a tremendous negro citizenry. It indicates that this state has a great mass of the less fortunate race for whom she must care. It means that a great economic responsibility devolves upon the state. Further, it means that Georgia cannot in fairness to the negro or in consideration of her own well-being politically ostracize this entire group. The state's prosperity is threatened when any considerable portion of its people is ignored. In 1930 there were 1,071,125 of the negro race living in Georgia. This large portion of the population of the state cannot always be politically neglected. Although the proportion of negroes to the total population in Georgia has been reduced since 1920, making the colored population a slightly less sizeable fraction of the state's citizenry, muniments of a proposal for the political recognition of all citizens are hardly less important.

But Georgia must of necessity exercise discretion in extending political rights to her negro constituency. She experienced a very sad plight in the days of the reconstruction when the negro was not only allowed to vote, but was also allowed to hold offices and take part in the control of the state. It was seen at that time that the best good of the state was served when the political supremacy of the the white race was restored. As long as the negroes remained in partial control of the government of Georgia inefficiency and anarchy were abetted, the indebtedness of the state greatly increased, and the happiness of the majority of its citizens impaired.

This does not mean that the intelligent men of the negro race should not now, with such conditions as then existed removed by the better part of a century of development and increasing prosperity, be admitted to political rights without illegal discriminations. The development of restrictions upon the registration and qualification of electors, and upon the participation of an undesirable element in the government of the state, was necessary and imperative in the earlier years of the present century. Now Georgia is detracting from her chances of becoming an economic and political giant among the states of the Union by the political mistreatment of its citizens. The negroes are a necessary element in the economic growth of Georgia. Their services are needed in the building of the State. They must be treated humanely and justly or they are placed outside the group of useful citizens. The fear of a return of reconstruction days should have been dissipated.

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[3] *Ibid.*, p. 189.

[4] *Negro Year Book*, Monroe Work, ed., (Tuskegee, Alabama, 1922), Addenda, p. ii.

An unhappy state of affairs though it is, it is true that several of the agencies, organized in the North and in the South to promote the advancement of the colored race, do more harm than good in their attempts to develop harmony between the races. Their methods are impolitic. The methods of force will never prevail in the question of granting political rights. The people must be educated, progress must be gradual and deserved, and not precipitate. The demands for negro suffrage must be through the uplift of that race and not merely the uplift of its voice through self-appointed spokesmen.

It is very difficult and not desirable to try to place the blame for the condition of the suffrage at the present day. The white people of Georgia must take a large share of the responsibility. Their own opinions and the extra-legal methods which they have employed during the present century are, in a large measure, reprehensible. While the Georgia legislative acts have complied in the strictest technical sense with the Constitution of the United States, the actual workings and administration of, and the spirit which prompted the State act, have violated the purposes of the amendments to the Federal instrument. It may be said that the people of Georgia had, in the days of the reconstruction, only one choice other than submission to the destruction of the integrity of the State, and that their only alternative was to exclude the negro from suffrage rights. They took the alternative. Following the year 1900 Georgia has had two courses, only one of which could be followed, because of their divergent nature. One course was to provide impartial suffrage laws bearing equally on all races and classing the intelligent of whatever race as its electorate. The other course, the course which the public opinion of the State demanded, was the institution of laws, which, while technically legal, were, in their spirit and administration, partial to one class over another, and extra-legal to all intents and purposes. Georgia chose the latter course. If an impartial suffrage law could be peaceably and justly enforced in Georgia, the former course would be the desirable one. A serious question still remains. Would the people elect a group of representatives in Georgia who would entertain such a law? Another momentous question arises from this. Could such a law be impartially applied in the State at the present time? There is no doubt now that these questions must be answered with an emphatic negative. The fear and distrust between the races is still too strong to allow the admission of complete impartiality, either in the passage, or the administration of the laws.

The point of view of the white man was that the negro vote in Georgia was undesirable. The white man felt that the great mass of ignorant negroes, if allowed a voice in State government, would tend to lower the standard in political affairs. He feared, also, that in questions which might occasion a breach in the Democratic party the negro vote would hold, as it did on numerous occasions, the balance of power in elections. This fear was largely responsible for the institution of the white primary laws. By disfranchising the negroes the white men believed that a purer ballot would be possible in the State, that ignorance would lose its influence in politics, and that the State would be safe through the supremacy of the white race in the body of electors and office holders.

It would be well for Georgians who wish to serve their State in a real way to try to bring about genuine amity between the races. Perhaps a more tangible service would be performed in a Constitutional Convention to amend the very unwieldly Constitution of 1877. In this convention a real service could be rendered by the adoption of a new Article on Elective Franchise, and the repeal of, and proper substitution for, the present laws for the qualification of electors and registration of voters in Georgia. Such moves would be real services to the State, for the present laws will not, in all probability, stand the tests of time, experience and public opinion. Those who have been near to the operation of these laws have expected judicial action against them practically ever since their passage.[5]

A leading lawyer said, ''Without any reference whatever to politics, it behooves those who are interested in the purification of the ballot and in raising the intelligence of our electorate, to take thought as to how our defense shall be made if these amendments are attacked in the manner foreshadowed in these judicial utterances, and to consider what has been done in accordance with the letter of the law, shall be overthrown by a showing of the violation of its spirit in the administration of these new provisions of our Constitution.''[6] The ''judicial utterances'' referred to were in the decision of the United States Supreme Court in a case attacking provisions in the Mississippi constitution which were very similar to those of the Georgia constitution.[7]

It has been charged that there is a virtual agreement ''between the Southern Democracy and the Republican bosses in the South, to wit, that the States be left, without opposition, entirely in the hands of the Democratic politicians and the Federal offices in the hands of Republican bosses.'' How such an agreement could be made and carried out is difficult to understand, but whether or not this is true, the actual conditions in the South seem to work out as if under such an agreement. In another place a representative in Congress is quoted as declaring that the disfranchisement of qualified negroes is a ''national scandal,'' that the ''Civil War actually increased the power of the South in that the Southern States [were] given full representation on the basis of their non-voting negroes; whereas before the Civil War they were represented on the basis of only sixty per cent of their slaves.''[8]

Others maintain that the readmission of negroes to political rights in the South would not be desirable. ''There is no possible way in which restoration of his political potency to the negro could improve conditions, better government, or promote the happiness of either race.''[9] If the negroes were readmitted under some sort of educational qualification there would no doubt be greater distemper and great conflict between the races in Georgia and other Southern States. An impartial enforcement of the laws of Georgia may be, however, the only solution of a trying problem which would be just to negro and white alike, and would work toward the preservation of the integrity and continued development of the State. The trial would at least be in accord with ''wisdom, justice and moderation.'' It must be borne in mind that this should not be considered, and is not a step toward the relinquishing of white supremacy in the control of State offices. No such status could be considered in Georgia, nor does any intelligent and candid man of any race propose or even favor it.

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[5] *Report of the Twenty-sixth Session of the Georgia Bar Association,* "Legal Aspects of the Recent Amendment," W. A. Harris, 238.

[6] *Ibid.*

[7] *United States Report,* Volume 170, p. 213, in the case of *Williams vs. Mississippi.*

[8] "The Negro's Influence as a Voter," Herbert Seligman, in the *Current History Magazine,* Volume 28, pp. 230, 231, May, 1928.

The past has held many problems on suffrage matters in the South. There are problems which face Georgia today, and that they are quiescent does not mean they are settled. All must face these problems with ''wisdom, justice and moderation,'' whether they be of one race or the other. Great sympathy, great forbearance, great vision, must be developed, for the end is not yet seen.

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[9] *Ibid.*, 231.

CHAPTER VIII

THE PRESENT SITUATION IN CLARKE COUNTY

The Black Belt in the Southern States is made up of those counties or sections which have a majority of negroes in their population. This Belt extends across the central section of the State of Georgia, Clarke County being in the northern fringe of it.

Every census of the United States from 1850 to 1910 has shown that the population of Clarke County was over fifty per cent negro, although the percentage of negroes has steadily decreased since 1870. In 1910 the negroes constituted 50.6 per cent of the population of the county. In 1920 this figure had fallen to 46.7 per cent, and in 1930 to 38.8 per cent. The negro population has been steadily declining as the negroes migrate northward in increasing numbers. The population of Clarke County is divided in a white-black ratio which is 2 per cent higher for negroes than that of the entire State of Georgia. Clarke County is near enough to the average of all counties to give some indication of the general situation in Georgia.

The course of politics in Clarke County has been very irregular since the end of the Civil War. The negroes first voted in the county in 1867. In 1867 and 1868, Clarke County, with an aggregate population of 12,000, had 2,273 registered voters. Of this number, 1,117 were white men, and 1,156 were negroes, giving the colored people a majority of 39 votes.[1] As a result, two negro representatives were elected to the General Assembly in the spring of 1868. At an election in the county in the spring of 1920, the lists of registered voters contained only 2,033 names, of which 1,888 were white men, and only 145 were negroes.[2] The population at that time was more than double the population of 1868.

These figures show something of the great irregularity of political life in Clarke County. They indicate that, in over fifty years, while the population of the county had increased more than 100 per cent, the voting strength of the county had actually decreased. In the same period, the figures show that the voting strength of the white people increased from 1,117 to 1,888, or nearly 70 per cent, while the negroes voting in this fifty-year period decreased from 1,156 to 145, a loss of nearly 900 per cent. It is also shown that the total number of voters in Clarke County decreased from 19 per cent of the population in 1868 to 8 per cent of the population in 1920. At the present time the yearly average number of voters at elections held in Clarke County is about 10 per cent of the aggregate population which, in 1930, was approximately 25,000.

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[1] Manuscript registration records in the Department of Archives and History of the State of Georgia, Atlanta, Georgia.

[2] Registration lists in the office of the Deputy Clerk of the Superior Court of Clarke County, Athens, Georgia.

Some of these irregularities in political affairs of Clarke County can be accounted for. Primarily, it was an undesirable situation when, in 1867 and 1868, as well as in the several succeeding years, there were more negroes than whites registered for voting. The negroes in the county were ill-suited by training and experience to participate in elections. The white men realized this, and, by intimidating negroes at the polls, and various fraudulent methods, managed to prevent the negroes from voting, or controlled those who did vote by paying or threatening them. In these ways it became possible for the men who were wanted by the Democratic white voters in the county to be elected, or "counted in," with very rare exceptions.

Until about 1890 the votes of the negroes held the balance of power in elections in Clarke County. In order to be assured of elections, candidates had to purchase their votes. Most of the negro votes were purchasable, and went to the candidate who bid the highest for them. Invariably the Democratic candidates were more successful in buying up negro votes, because they represented the richer party and could more easily influence the negro votes.

A typical situation was shown in an election in 1891 on the question of a liquor dispensary for Athens. Reliable accounts of the affair show that, so effectively was the negro bought out or prevented from voting that the dispensary was voted in by eleven votes. Had the negro vote not been controlled, there is little doubt that its great influence would have been for free liquor trade. Those interested in the outcome of the election employed various schemes to control the negro vote. One prominent white landowner hired a large number of negroes, who would have voted in the election, and took them into an adjoining county, paying them three dollars a day (a very high wage in 1891) to induce them to do some work for him there. Another leading citizen of Athens gave a barbecue for the colored men and arranged it so as to conflict with the election. It was held at a place removed from the polls, for it was known that the great body of negroes were more interested in barbecue than in voting in the election. In this way a great number of negroes were kept away from the polls. Those negroes who did appear at the polls were not strong enough, combined with the minority of white men, to defeat the dispensary plan.[3]

By 1892, through one scheme or another, the white people had managed to gain a majority of the registered voters in Clarke County. In that year the county had 1,281 registered white voters, and 1,111 negro voters.[4]

Acts passed in 1908 disfranchised a great many negroes. In an amendment to the Georgia constitution, adopted in that year, the supervision of the registration of all voters was given to county boards of registrars. In administering these laws the boards were empowered to decide who were qualified to vote in all elections. The disfranchisement of the negroes of Clarke County was largely accomplished through the administration of the provisions of this registration amendment.[5]

As discussed previously, in the same year a law was passed that strengthened the provisions for the regulation of primary elections. It gave to political parties the right to specify who could vote in primary elections of the party. Acting under the provisions of this law the Democratic party held that only white men, who were registered voters, could participate in primary elections of that party. The provisions of the 1908 law are still operative in Georgia, in all counties. In city, county and national affairs in Georgia there is only one party which holds a primary election, and Democratic candidates are virtually elected in the primary of that party. The negroes are excluded. The result is that all political questions are settled in the primary elections of the Democratic party. General elections, in which all may vote if qualified, are formal, uncontested functions. There are rarely any candidates in municipal and county affairs to oppose the regular nominees of the Democratic party.

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[3] From several accounts of the election by old residents in Athens. The issue in the election was between free trade in liquor on one hand and adoption of community control of dispensation of spirituous liquors on the other.

[4] Charles M. Strahan, *Clarke County, Georgia and the City of Athens* (Atlanta, 1893), pp. 38, 41, 43, 44, 47, 49, 51. These totals were compiled from the figures for the eight militia districts of the county given separately on the pages indicated in this note.

[5] Many of the officers of Clarke County stated that they considered the purpose of the amendment to be the elimination of the negro vote. It is generally understood that this was the purpose of the amendment. With county officers holding this view, it is not likely that an impartial administration of the amendment can be expected.

In Clarke County in 1916, an election was participated in by 1,388 voters, of whom only 80 were negroes. A comparison of these figures with those of 1868, nearly fifty years past, shows that the voting strength of the county in the election of 1916 was less than 60 per cent of the voting strength of the county in the 1868 elections. This comparison of the two elections further shows that, although the aggregate population of the county had increased 10 per cent, the white voting group had increased only 10 per cent, and that the negro voting group was actually more than fourteen times smaller in 1916 than it was in 1868.

Clarke County registration lists for nine elections held between March, 1916, and November, 1928, show that there was a yearly average of only 121 negroes voting in the county for these elections,[6] while in 1920 there were 6,212 negroes, who were twenty-one years of age or over. Of that number, the census declared less than 2,000 illiterate. Of the 4,000 remaining, a few more than one-half were women. The negro women do not participate in elections in Clarke County. Approximately, then, in 1920, there were 2,000 negro men of voting age in Clarke County who were not illiterate. In an election in 1922, however, only 156 colored persons were qualified to vote and entered on the registration lists of the county. There were, consequently, over 1,800 literate negroes of voting age who did not qualify to vote. Just how many of the partially qualified 1,800 negroes made an attempt to register is impossible to ascertain. It is also not possible to determine accurately how many were not qualified to register as voters.

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[6] Registration lists on file in the office of the Deputy Clerk of the Superior Court of Clarke County.

A review of the tax digest in Clarke County for 1930 reveals that there are about 360 negroes who should pay taxes on property assessed for taxation at a valuation of $500.00 or more. According to the present registration laws (substantially the acts of 1908) those persons who own in their own right property assessed for taxation at $500.00 are qualified to vote if they are of age, if they have resided in the State one year, and in the county six months, and if they have duly registered. Taxes for citizens of the county comprise a road tax, a property tax, and a poll tax.[7] Unless all of these are paid the persons cannot register as a voter. Of the 360 negroes in the county who are assessed to pay taxes on property assessed at the amount requisite for voting, a large number are returned as insolvent on the poll tax reports. Non-payment of this tax makes a person ineligible to vote. Of the whole number of negroes in Clarke County, approximately 10,000 at the present time, only 324 were assessed a poll tax in 1930. Of the 324 on the tax digest, only 216 paid a poll tax for 1930. This meant that, for the year 1930 at least, only 216 negroes in the county could have been registered. The fact is that for 1930, 172 were on the registration lists as qualified voters. With only 216 eligible to vote (in so far as their payment of a poll tax qualified them) and 172 on the registration lists, it is certain that no great amount of discrimination could have been present, for, undoubtedly, even some of those who had paid a poll tax either had not paid other taxes, or could not satisfy the other conditions for registering as voters; such as, residence in the State and county, and freedom from crime. Of the 172 negroes who were qualified voters in 1930 only approximately twelve to twenty of them voted in the general election of that year. This evinces a great lack of interest in political affairs. The officials of the tax collector's office stated that the negroes rarely take part in State and county elections, and that it was in presidential years that those negroes who were qualified came out and voted. The negroes who do vote are representative of the best class of the race—negroes who are leaders in their professions, in schools and churches, or who are higher types of the tradesmen.

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[7] Every man between the ages of twenty-one and sixty is required by law to pay the poll tax in the county. The reason only 324 negroes paid the poll tax is that others could not be found and forced to pay. There is no canvass of the county by the tax assessors. Therefore, unless the negro voluntarily makes his tax return, or is found by a tax official, he may avoid paying the poll tax.

From the foregoing it seems that the charges that illegal discrimination against negroes is practiced by county registration officials fail to find definite substantiation in Clarke County. It must be remembered that in order to vote a person must not only have paid taxes for the year in which he attempts to vote, but must also have paid all taxes required of him since the adoption of the Constitution of 1877. A person who pays all taxes for a certain year and who satisfies other requirements for registration, cannot register and vote unless all taxes for previous years also have been yaid. In the elections in the fall of 1930 there were approximately 3,240 registered white voters and 172 colored voters.

The organization of the Democratic party is an important factor in the reduction of negro voting. In Clarke County the activity of the party and its candidates is controlled by an executive committee of fifteen, composed of one man from each ward in the City of Athens, one from each district in the county, and two from the county at large. This committee draws up rules governing the conduct of primary elections in the city and county, but these rules are in general conformity with the regulations of the State Democratic Executive Committee. The rules of the State Committee provide that "All white electors who are Democrats and qualified to vote in the general elections who in good faith will pledge themselves to support the Democratic candidates for all offices . . . are . . . qualified to vote in [the] primary [election]"[8] The purpose of this rule was to eliminate the negro and Republican vote. In this way the old practice of allowing several Democratic nominees to divide the vote of that party among several nominees, and thus help in electing a negro or Republican to office, was eliminated. There has been a tendency in the last few years to allow Republican white men to vote in the Democratic party. In Clarke County large numbers of those who have voted the Republican ticket for years, have recently been premitted to vote in Democratic primaries.[9] This may be considered a most important development in the history of the suffrage in Georgia, for it gives an indication that the Democratic primary, the greatest deterrent at present to the negro's participation in elections, is crumbling. Republicans have been allowed to vote in Democratic primaries despite the State ruling of the latter party which definitely limits participation in the primaries to those who are Democrats and who pledge support to the "Democratic candidates for all offices." Will it be possible later for the rules of the party to lose even more power and admit the negro to participation in primary elections? This development seems unlikely, at least for the next generation.

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[8] Rules and Regulations of the Democratic Executive Committee of the State of Georgia, 1930.

The Republican party has a county organization similar to the executive committee of the county of the Democratic party. In Georgia, however, the Republican party works through conventions, and does not hold primary elections, so a consideration of this organization is not important here.

In preparing the material for this study of *Negro Suffrage in Georgia,* the author has been forced into the realization that it is impossible to form definite conclusions concerning the reasons why negroes in Georgia do not vote. In the chapters which have been presented, a number of discriminations, deterrents, prohibitions, and other legal and extra-legal measures have been considered in their relation to politics and, in particular, to the suffrage rights of negroes in this State. It was seen that at no time has public opinion in Georgia favored the grant of the elective franchise to the colored people. Consequently, as has been indicated, the laws of Georgia have never proved favorable to suffrage extension. Since reconstruction days, all registration and election regulations, for both primary and general elections, undoubtedly were passed with the intention of excluding the negroes from the body of electors.

Although the paramount reason why negroes do not vote is that the attitude of the whites is against it, a number of other partial explanations can be made.

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[9] This is on the authority of members of the Democratic Executive Committee of Clarke County and of Republican partisans who have voted in Democratic primaries.

Many negroes do not vote because they do not, or cannot, pay the required taxes.

Some negroes do not attempt to vote because of a desire to avoid causing trouble or giving offense to the whites.

Many do not vote because they have no interest whatsoever in political affairs.

Some negroes think simply that voting is the white man's business.

A large number of negroes do not offer to vote because they realize that they can vote only in a Democratic primary, the Republican party holding no preliminary election.

Other minor reasons for the non-voting of negroes could be advanced, but it is evident that there would be great difficulty in attempting to place them in any order of increasing or decreasing influence upon the negro vote.

The author feels that the imposition of such qualifications as would assure the State of intelligent and educated voters, regardless of social position, race and color, would be the logical and just change in the method of selecting voters. It is evident that the Article on Elective Franchise of the present Georgia Constitution is, like the remainder of the Constitution, unwieldy, inadequate and inefficient, and does not permit equal and impartial treatment of all citizens.

With the present Constitution, and with the prevailing attitudes toward political life in Georgia, it does not seem possible that we can work out satisfactorily the problems which confront us. It seems that we need to incorporate in our working philosophy the ideals given us by one of our former leaders. In the words of Henry Grady, "The future holds a problem in solving which the South must stand alone. This problem is to carry in her body politic two separate races, nearly equal in number. She must carry these in peace, for discord means ruin; she must carry them separately, for assimiliation means debasement; she must carry them in equal justice, for to this she is pledged in honor and in gratitude; she must carry them even unto the end, for in human probability she will never be quit of either."

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